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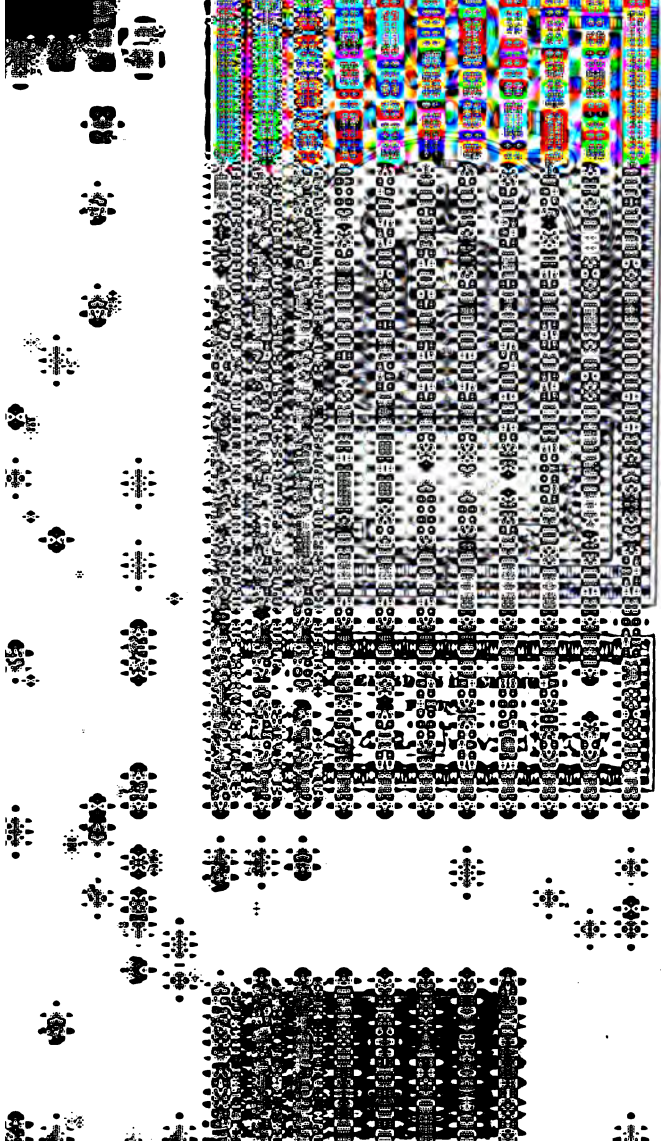
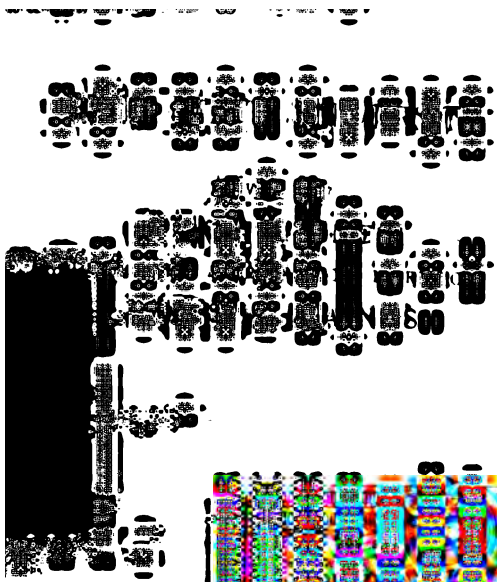
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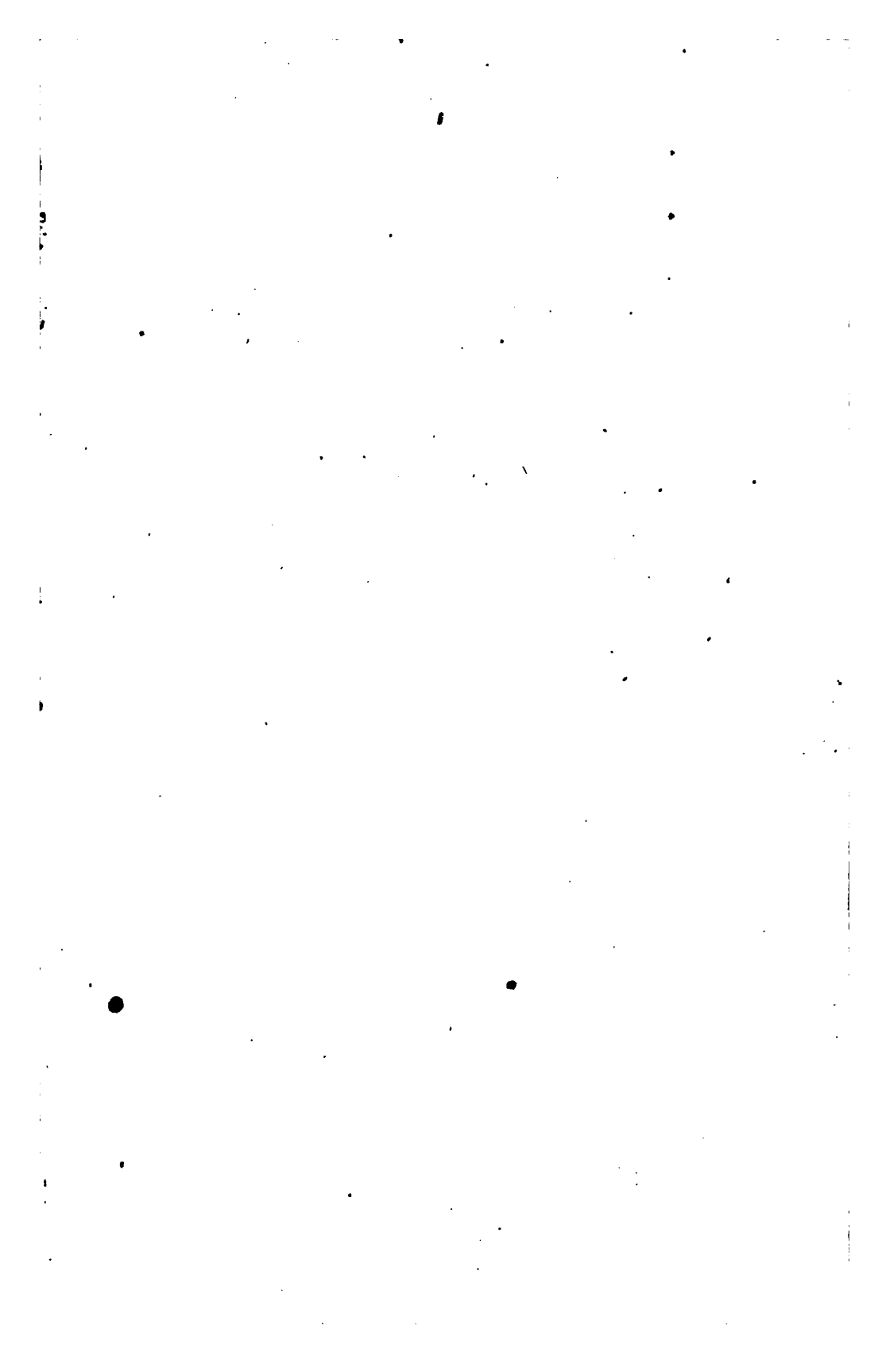
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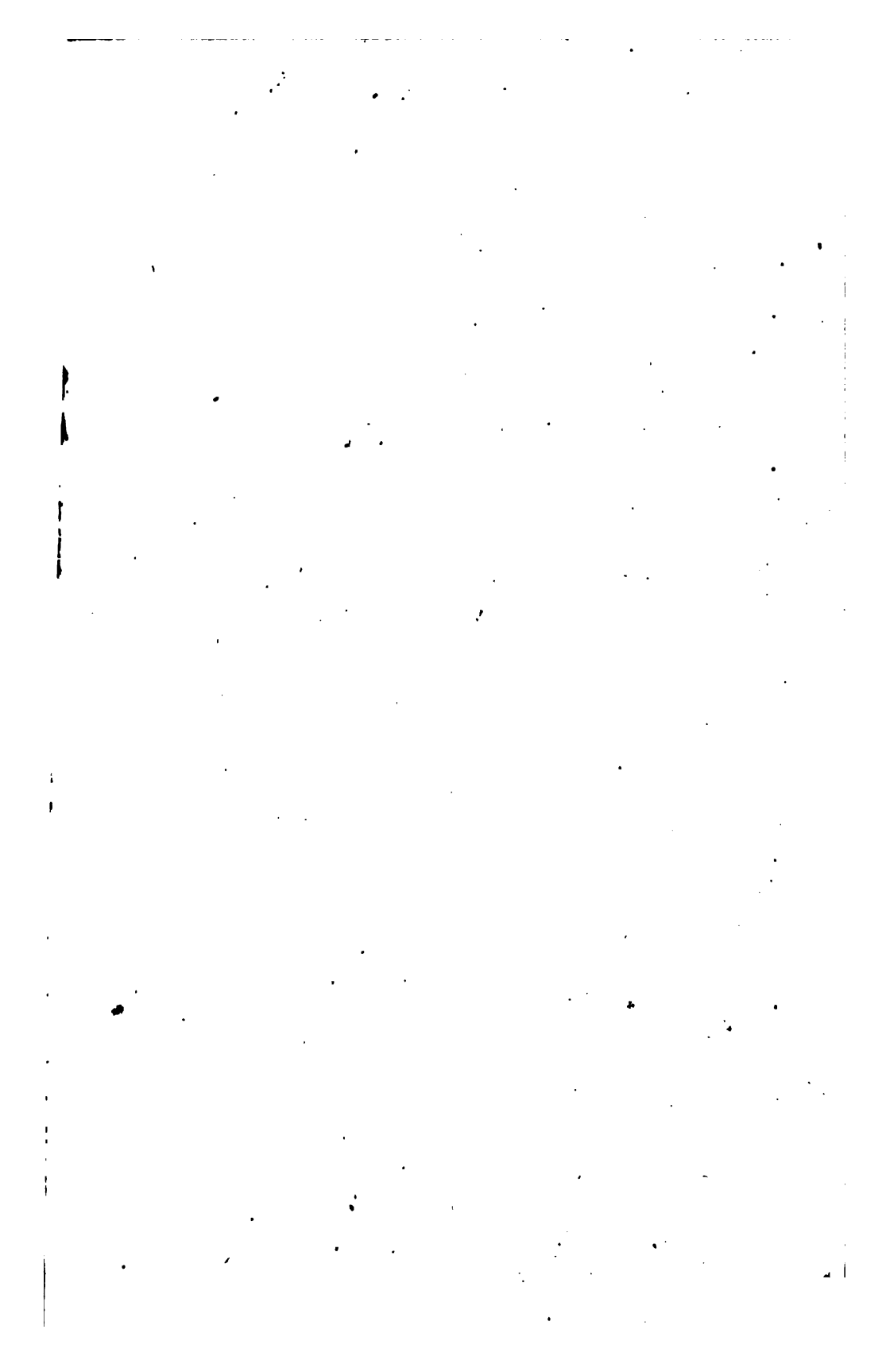
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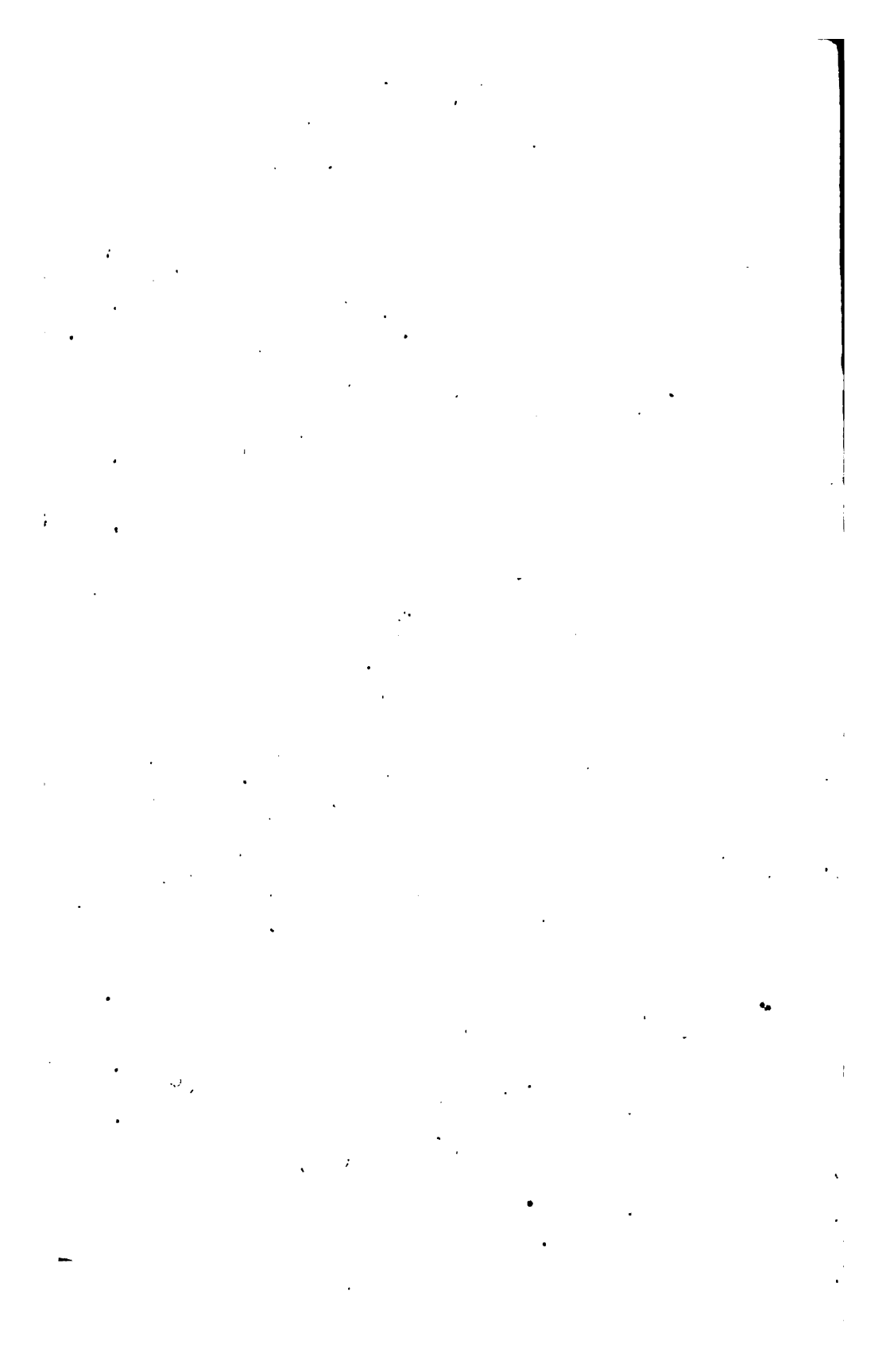
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1848-49







Ohio General Assembly, 1848-9.

APPENDIX

TO

THE HOUSE JOURNAL

FOR THE

Session of 1848-9.

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APPENDIX TO HOUSE JOURNAL.

REPORT

OF A

Minority of Select Committee on the subject of calling a Convention to frame a new Constitution.

IN HOUSE—March 14, 1849.

Mr. PENNINGTON, from the Select Committee to which was referred so much of the Governor's Message as relates to a call of a Convention to frame a new Constitution, submitted the following

REPORT:

The subject is one of great importance to the people of Ohio. The question has been agitated in the legislature for some years, and so far as our information extends, has thus far principally engaged the attention of politicians. We are not aware that a single expression of public sentiment has ever found its way by petition to this Hall, demanding action upon this subject. Instead of this *silence* on the part of the people, being indicative of their approval of the measure, it is most *significant* of their disapprobation. Look at the great questions of the age, moral and political reform, that interest and agitate the country; you find the people assembling in their primary meetings, mass conventions, and in a bold and fearless manner, giving free utterance to their thoughts in the way of speeches, resolutions, addresses, petitions, &c. Is it to be presumed that the intelligent people of Ohio, would not be awakened to this movement if a *real* necessity for it existed? To come to such a conclusion, would be to deny to them, the merit of that proud position which they occupy in the moral, social and intellectual world, and which fits them for the enjoyment and preservation of their rights and liberties.

It is not a party question, and has therefore never influenced the election of members to the legislature, one way or the other. So far as we are advised, it has never been made a question in a single county in the State. We know

that politicians have been for years urging the passage of a bill submitting the question to a vote of the people; but politicians are *not always* the true index of public sentiment; they as often *misrepresent* as *represent* the people's will. Guided and controlled by selfish motives, their principles controlled by self interest, it would be a dangerous experiment to leave the destinies of a free people in their keeping.

The Constitution of the State of Ohio was adopted in Convention on the 29th day of November, A. D. 1802. It is the work and finish of the early and patriotic pioneers of the great west, in the cause of republican liberty. It will be found, by reference to many of its provisions, to be an act copy from the Federal Constitution; of that constitution that issued from the hands of the disinterested patriots of the revolution, that has stood the shock of party conflict for more than half a century, and remains unchanged and unshaken, amidst all the exciting questions of progress, as a durable monument of the wisdom that framed, and the sound republican opinions of those who adopted it.

In the progress of time, some evils even in that venerable instrument are made manifest. Yet what American citizen, who is honest in his attachments to the free institutions of our land, would be willing to run the hazard of undertaking in these times of angry party feeling, and party dishonesty, to abandon the Constitution of the United States with the hope of making a better one—one that would more effectually secure the happiness of the people, the union and prosperity of the American States; to try such an experiment would be to cut ourselves loose from the sheet anchor of hope in the preservation and longer continuance of the American Union.

We are not opposed to change, we are in favor of progress; but we are in favor of that change and that progress, which, in its results is most likely to secure the blessings of liberty, and establish equal and exact justice among all men.

If we were made sensible that the present Constitution would likely be made better—that the public voice demanded an alteration, we would be the last to interpose an objection. It is said in the Declaration of Independence, that:—"We hold these truths to be self evident, that all men are created equal; that they are endowed by their Creator with certain inalienable rights: among which are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their powers from the consent of the governed—that, whenever any form of government becomes destructive of these ends, it is the right of

the people to alter and abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

These are principles which lay at the foundation of all free government; when they shall cease to be obeyed and respected, liberty will have fled from among men. The framers of our constitution have looked to the security of these great objects, in the provisions which they have engrafted upon it.

The Constitution of our State was laid upon the deep, broad foundation of human liberty. Under its benign influence and sound conservative principles, we have grown prosperous, happy and great—what liberty that the citizen is entitled to, that it does in the least abridge? What right of property or of person that it does not extend the most ample protection? There is not a Constitution to be found within the whole broad limits of the American Union, that does more perfectly secure and protect the great ends set forth in the Declaration of Independence, for which "governments are instituted among men." The experience of forty-six years, has doubtless detected evils in some of its provisions; it would be strange if it were not so. Because there *are* some evils in the form of the existing government, does by no means justify a change. It is the work of man, and is, therefore, *necessarily* imperfect. If Constitutions are to be changed because some men, or set of men, are not justly dealt with in *their* own opinion in all things, continual revolution and change would be the sad result. Is it expected that a Convention can assemble to frame a new Constitution, that will in its deliberations and conclusions meet the expectations of all classes of men? Such an idea is preposterous in the extreme. We have much better reason to conclude that if a new Constitution was framed by any Convention likely to assemble for that purpose, instead of producing satisfaction and calming the agitation, it would only become more universal and deep rooted—it would not be long before a deep, strong cry would come up from every quarter of the State for another change. The lessons of history inform us that frequent changes in the Constitution or policy of governments, is baneful to the welfare of the people and the success of republican liberty.

The main and principal reason urged for a new Constitution is, that the administration of public justice demands a change in our judicial system. We readily admit that, as present constituted, the people are subject to some evils and

delays in litigation—that a change is not only desirable but necessary. It will, we trust, be admitted, that if the legislature has power to correct these evils, that the argument so far as this objection to the present Constitution goes, is disposed of. The provisions of the Constitution that bear upon this question, are found in the third article. The 1st section declares “the judicial power of this State, both as to matters of law and equity, shall be vested in a Supreme Court, in Courts of Common Pleas for each County, in Justices of the Peace, and in such other Courts as the legislature may, from time to time establish.” Four Judges constitute the Supreme Court. By the second section of the Constitution, the State may be “divided into two circuits, within which any two of the Judges may hold a Court.” If the burthens of the Supreme Court are so great, that the time allotted for their sitting in each county is too limited to enable them to give proper investigation to the cases, what objection in pursuance of the Constitution, to dividing the State into two districts, and let the court be sitting in each circuit at the same time. This would give more time, especially to those counties where the business is so extensive as to demand it. Courts of Chancery and Courts of law, in this State, are separate and distinct systems, and have separate and distinct jurisdictions, yet are administered by the same Judges. It has always appeared to us that there never was any real necessity for these distinctions; that there should be but one form of administering justice in all cases; that there should be, so to speak, but one court, and that court should have jurisdiction of every case, and in every shape in which it could be presented. But as the two systems are distinct in our State, there is an impropriety in having them both administered by the same Judges. Let the Legislature therefore organize a Chancery Court, by dividing the State into as many circuits as is required, and elect Judges or Chancellors accordingly—giving to the Courts such original and appellate jurisdiction as may be deemed necessary to secure the ends of justice. This done, (no one denies but that the legislature have full power) and the great burthens now complained of, as resting upon the shoulders of the Judges of the Supreme Court would be removed. It is said that it is great folly, and some say ludicrous, to require the Court to meet in each county of the State once a year. We look upon this requirement in the Constitution as one of the wise things provided for by its framers; it not only renders the administration of justice more speedy, but more economical. It is a matter of great consequence to the litigant, who has had the expense of one

court, that he should not be compelled to travel very far to have his case tried in another. If it is proposed to change that provision of the Constitution, requiring the Supreme Court to be held once each year in every county of the State, in behalf of the people's interests and rights, we enter our solemn protestations against any such change. No citizen, unless the Court is unable to agree, should be required to be put to the expense of going beyond the limits of his own county for an adjudication upon the merits of his case, when the case admits of an adjudication in the county where he resides.

It is therefore right and proper that the Supreme Court should, as they are required to do, hold their Court once a year in each county of the State. It seems to us that these suggestions are sufficient to show that the legislature *can* if it *will*, remove the evils now complained of in relation to the investigation and decision of causes by the Supreme Court. If the burthens of the Courts of Common Pleas are too onerous, the legislature have ample power, as they have frequently exercised it by creating new judicial circuits. In great cities like that of Cincinnati, where litigation increases as rapidly as the city grows, interminable delay will inevitably result from the best system that can be devised. A man who gets into a law suit, to be tried in any of the great cities of the United States, stands a very fair chance of having his executors or administrators witness its consummation. We venture the opinion that there is not a single State in the Union where justice is more speedily, more economically, and more certainly administered, than in that of our own. Go where you will and complaints will exist; one party in a law suit will always be dissatisfied with the result. Such is the fate of litigation. Without answering farther the objection to our judicial system, as present constituted, we think we may safely conclude that if the legislature will go to work in sober earnest, with an honest desire to do good, that all the mischief complained of may easily be suppressed and the remedy advanced; in other words the fault is not in the Constitution, but for the want of proper legislation.

Another evil greater than all others that inflict our judicial system, is the forms of proceeding which are adopted and pursued. If the legislature would do what they should do, and sooner or later will, abolish the whole system of common law pleading, and institute instead thereof, a plain and practical manner of proceeding in all cases, so that without technicality or fiction, a decision may be had directly upon the merits of the case, they will do more to facilitate, make

economical and certain the administration of public justice, than any alteration or amendment of the constitution that could be invented or devised.

It will be found upon examination, that much of the expense and needless delays, and injustice done to parties, result mainly from the existence of the present system of procedure. The fault is not in the law, but in the forms through which it is administered.

With the legislature alone rests the responsibility of their longer continuance.

This is the second session that an effort has been made to pass a bill, prepared by one of the best legal minds of the State, for the building up of a system of procedure which will be free from all technicality and fiction, and look alone to the bringing of the issue between the parties to a speedy and direct decision.

It is a want of *proper legislation* that has brought upon us all the evils which are seriously complained of. Let the law making power of the State discharge its duty—let the people look well to the *selection* of their representatives, and hold them to a *strict* accountability for the manner they fulfil their trust. These rules and principles lived up to, we shall soon cease to be afflicted with bad laws and bad government.

Your Committee have listened with great attention to many of the reasons which have been urged in favor of this movement, and we are unable to see any wise and beneficial purpose, looking to the great good of the people, that lies in prospect in the event of a change of our present Constitution. One class of men want a new Constitution for one purpose, some for another; one will contend for negro suffrage, another is opposed to it; one is favorable to the principle of corporations and bank charters as necessary to the interest and business operations of the State, while a formidable number insists upon the reverse; and so on, questions are raised and objected to without end. In a Convention where delegates entertained sentiments so diametrically the opposite of each other, could you expect harmony, deliberation or conclusion. In the present state of party excitement, it would be impossible to form a Convention that would not to a great extent be biased by party prejudice, and fettered by party trammels. The domination of party would be the controlling object, party would rule the Convention, party would make the Constitution; and God save us not only the disgrace, but the destruction which would follow to the best and most important interests of our State from the adop-

tion of a Constitution which was the work of party. The man who thinks we could get any other has not looked far into the realities of the times.

It is said that the Constitution was never submitted to the people for their ratification. This very *fact* is significant of its wise provisions, and salutary operations. Not a murmur of complaint has ever been heard against it from the great body of the people; they have tested it by nearly forty-seven years of experience, and their *silent* acquiescence is a most potent voice in its favor. It is the offspring of pure patriotism and sound political judgment.

It enlightened, animated, and made glad the hearts of the good men who framed it, and has protected and made prosperous the prolific generation that has followed them.

That it is the *best* that could have been devised, that it is free from fault, we do not plead; neither do we expect that any one will be so foolish as to contend that if a new Constitution was made to-morrow, that errors would not be committed, and that objections equally plausible might not be urged.

Again, it is said that the Constitution is objectionable because it is too general in its provisions. Your committee regard this as its greatest virtue—no wise constitution will ever prescribe what are proper and what are improper subjects of legislation. It should lay down in general terms those essential elementary principles of free government, with proper restrictions against legislative encroachment. The legislature should be left as much as possible with absolute power in its own department of the government, except the liberty to abridge, limit or destroy the rights and freedom of the people.

The Constitution should contain the principles of the government, while its policy should be left exclusively to the discretion and judgment of the legislature.

A constitution that would limit the legislature or dictate to it, measures of policy, would be not only unwise, but in nine cases out of ten, conflict with the best interests of the people.

In examining our constitution it will be found that while it is conservative in its character, and secures by its provisions the essential principles of free government, it leaves entirely its policy to be guided and controlled by the legislature. A constitution that would do more than this, would be destructive in its consequences, and would require frequent change.

Let us therefore not be deceived; the prosperity, onward growth and greatness of the State depend upon the preser-

vation of our present constitution. We know that at times its plainest principles have been utterly disregarded and set at naught. Let the legislature discharge *their* sworn duty ; let them live up to, and carry out its provisions, and the seeming necessity for a new one will all vanish. It is broad enough and plain enough to uphold and protect every interest and every right for which "governments are instituted among men."

We should not rush headlong upon the wild sea of experiment—we should not lose sight of those great conservative principles that are indispensable to the perpetuity of republican liberty.

If a new constitution is necessary, let us wait until the going down of the sun of political strife—till the cessation of party acrimony, and above all, until the voice of an intelligent and sovereign people ask it at our hands ; let them be the arbiters of their own interest, and their own welfare.

While this constitution lasts, we have the promise of a bright and glorious future before us. Let the fiend of party spirit strike it down, blot it from the pages of our history and undertake to build another upon its ruins, and the evils which are now *imaginary* will be *real*.

The last plank of safety to that policy which has made the State what it is, will have passed from under us, and radicalism, the most ultra, and most destructive to the welfare of all, will stalk abroad. To save us from such ends, let us cling to this good old constitution, with the love our fathers bore for it, as the only sheet anchor of our hope and our safe destiny.

"The people of Ohio should remember that it has been to them the shadow of a great rock in a weary land, that it has protected them in the midst of strong excitement, and the most embittered party conflicts; and that it had the power to do this, because it was not the work of party, but of patriotism and political wisdom."

MILLER PENNINGTON.

REPORT
OF THE
SELECT COMMITTEE ON HOUSE BILL NO. 234
CONCERNING ESCHEATED PROPERTY IN THE
COUNTY OF HAMILTON.

The select committee to which was referred House Bill No. 234, "concerning escheated property in the county of Hamilton," has had the same under consideration, and begs leave, earnestly to recommend its passage.

Escheats of land, previous to the year 1847, fell into the general property of the state, and in pursuance of the fiction that the state was the original donor of all property—a fiction consistent in feudal times, but now simply frivolous.—Property in the soil began from first seizure and possession, and the first occupier of an estate left vacant, has, to this hour, as good a title as the community at large. At all events, counties are more entitled to assume the ownership of such property than the state, because the chief business of government, *the administration of public justice*, is carried on by county organizations.

In the year 1847, a different policy was adopted. By an act passed 8th February, of that year, new and more stringent provisions were made for discovering and securing escheats, and the proceeds thereof were appropriated (except in the city of Cincinnati,) to the maintenance of an agricultural fund. This act recognized the principle that escheats were not to be considered as parts of the ordinary revenue of the state, but as occasional contributions thereto, and properly applicable to those humane functions, beyond its exact limits, which the government has seen fit to exercise. Such has long been the policy of Ohio in relation to other extraordinary revenues. The auction fund, as it is called, has always been devoted to the support of our various asylums and hospitals. The appropriation of escheats to agricultural improvement, was in pursuance of this policy, and an act honorable to the legislature which accomplished it. The interests of manufactures and commerce have engrossed the

attention of the General Assembly, year after year, to the exclusion of the interests of agriculture. What benefit the farmers generally will derive from the labors of the State Board upon that subject, the committee cannot foretell; but certainly high hopes may, and ought to be, entertained.—And should more efficient support be requisite, the committee would not object to an appropriation in aid of the agricultural fund. Such an appropriation would be equally felt throughout the state—as equally, at least, as taxation can be made. Hamilton county pays a proportion exceeding *one-eighth* of the annual taxation of the state, but her agricultural interest does not bear any like proportion to the agricultural interest of the state.* The appropriation of escheats to the agricultural fund operates with still greater inequality upon Hamilton county. The large number of foreign immigrants into that county, an industrious and thrifty body of men, causes a much greater number of escheats there than any proportion which either her agricultural interest, or her taxation, bears to those of the state at large. If the board of agriculture needs assistance, as it probably does, let that assistance come proportionably from those counties which are benefitted by its labors, and not *exclusively* from the county of Hamilton. This is neither an honest mode of aiding a laudable design, nor one calculated to render that design popular and effectual.

On the other hand, Hamilton county has a special object of benevolence—one not addressed to any pursuit in life, how honorable and deserving soever, but one of the essential objects and ends of human government. This vast influx of foreigners, together with the general density of her population, has afflicted that county with a peculiar exhibition of crime, appalling and heart-rending beyond expression, for which a peculiar remedy is alone adequate. The committee refers to the exhibition of crime in boys and girls—many of whom have barely passed the limits of infancy itself. At every one of the four criminal courts holden in that county, each year, eight or ten boys are arraigned for larceny, embezzlement, obtaining money on false pretences, and even the graver offences of burglary, robbery, arson, and malicious shooting or stabbing—not to mention the scores of children, girls as well as boys, brought before examining magistrates,

*From the Auditor of State, the committee learns that the whole amount of taxes collected from real and personal property, for the year 1847, was

\$1,155,502 17,
142,027 31

Collected in Hamilton county,
Somewhat more than one-eighth of the whole amount.

and allowed to escape. Your committee is cognizant of the names of a dozen boys, ranging between the ages of ten and seventeen, who have been convicted five or six times within the past three years. Over this record of precocious depravity, one may well weep, and, weeping, painfully forebode the decay of public as well as private virtue. Most of the girls grow up to lives of common prostitution and theft: of the boys, many are now in the state prison, and not a few are destined to the felon's grave. In competition with alleviating this terrible, humiliating, crushing visitation—worse than the pestilence and the famine—the improvement of agriculture, or commerce, or manufactures, is not worthy of an instant's consideration. It is in vain that our schools are daily open, that religion is free, that prosperity covers the land, whilst the republic is thus stricken in the most tender and vital part—those who are to exercise her sovereignty and shape her destinies.

The only remedy thus far devised is a house of refuge and correction, where youth may be kept separated from adult and hardened offenders, and reclaimed, by proper influences, from the ways of vice. The ordinary system of confinement in the watch-house, the jail, and the penitentiary, has been found only to aggravate the mischief, by bringing the criminal of an hour into immediate association with the mature villain. The General Assembly, several years since, authorized the city council of Cincinnati to erect a house of correction, but made no efficient provision for its support.—Private subscriptions were invoked; but in a city where the calls of charity are so frequent, little or nothing could be done by such means. By taxation upon the property of the citizens, however, the enterprise has been commenced, and bids fair to proceed prosperously, and to realize the fond hopes of the reformer and the philanthropist. But the institution is not a city institution peculiarly, nor ought it to be exclusively sustained by the city taxation. Juvenile offenders from the thickly settled townships, surrounding Cincinnati, are the subjects of this institution, and are to be taken from the bar of the county court to its portals. The provisions of the act creating the house of correction apply to the county at large.

Now the act of 1847 allows the escheats, *within the city of Cincinnati*, to be appropriated to the support of this institution—thus acknowledging the propriety of the bill under discussion, in all cases where the same reasons may be found to exist.

The county of Hamilton consists of fourteen townships, beside the township of Cincinnati, one of which (Millcreek) is divided into two precincts. Of these, one precinct and three townships have no agricultural interest at all: they are, on the contrary, so densely populated as to subject them, in common, to the frightful afflictions already specified. Other townships there are, which have no considerable interest of a strictly agricultural character. Hamilton county has, therefore, a peculiar object of benevolence and necessity to which this source of revenue, so far as she is concerned, ought peculiarly to be devoted. The burthen of her wealth and the mass of her population are not concerned in the other object to which the act of February 8th, 1847 appropriates the proceeds of escheated property. They will gladly pay a tribute to the agricultural fund proportioned to her agricultural interest in the state.

All which is respectfully submitted.

G. E. PUGH.

REPORT

OF THE

SELECT COMMITTEE ON THE MEMORIAL CONCERNING THE NEW STATE HOUSE.

The select committee to whom was referred the memorial of R. E. Neil, William Miner, E. Gale, William A. Gill and others, concerning the New State House, beg leave to report :

That upon a careful examination of both the plans for the interior arrangement of the new state house, mentioned in said memorial, they find :

(A.)

That the rooms laid down in the cellar and first story are sufficient, if well arranged, for the objects assigned to said stories.

(B.)

By a separate examination of the old plan, viz : the plan adopted by the commissioners for the new state house, your committee find :

1. That the floor of the rotunda is elevated about seven feet above the floor of the first story, being about ten feet below the floor of the second story, with stairs passing each other up and down.

2. That the four open (2.) courts are to be vaulted over on a level with the floor of the first story; the floors upon these vaults to serve as passage ways to the privies, which are placed into the corner walls of the rotunda.

3. That the eight rooms adjoining the rotunda in the 2d and 3d stories are only accessible by way of out-door galleries leading over the open courts.

4. That the halls in the second story are not of sufficient dimensions for their objects, nor of such proportions, as the size of the building seems to require.

(C.)

Explanation of the new plan for the interior arrangement of the new State House.

1. The cellar rooms, about 14 feet high, *excepting the four rooms adjoining the rotunda*, remain as laid down by the old plan. They are for storing fuel, &c., and preparing hot air, to warm the upper rooms.

2. The basement story, about 17 feet high, *excepting the four rooms adjoining the rotunda, and the stairs leading to, and from the same*, remain as laid down by the old plan; furnishing a sufficient number of fire proof rooms for the different offices of the state government, and court in bank.

3. The rotunda retains the dimensions laid down by the old plan; but the floor thereof, is to be on a level with the floor of the second story; instead of its position by the old plan, half way up between the first and second stories.

4. The stairs in the middle of the building, on the East and West fronts, lead directly up to the floor of the rotunda, from which the South and North doors lead, on a level with the second floor, to the State Hall, Senate Hall and State Library.

5. In addition to said stairs, there are four stairs adjoining the outside corners of the rotunda, and leading from the bottom of the building to the 1st, 2d and 3d floors, and to all the rooms adjoining the rotunda, in each story above the cellar rooms. These stairs are of stone, and 43-12 feet in the clear. The top of these stairs is to land in the water reservoir rooms adjoining the rotunda, and from these rooms, there are four circular winding stairs, one in each corner of the outside square of the rotunda, leading to the top thereof.

6. In the corner room of the first cross passage in the north wing, there is an additional pair of stairs leading from the first story to the floor of the second story, landing on the passage, between the library and senate hall; leading also from the floor of the library to the gallery of the same.

7. The south wing of the second story contains the STATE HALL, for the use of the House of Representatives, with committee rooms on the east and west sides, and galleries on the east, west and north sides; said galleries being accessible from the floor above the entry into the hall, and entirely separate from the same.

8. The north wing, second story, contains the SENATE HALL, the LIBRARY and committee rooms. The entry to the gallery of the Senate Hall is also from the third floor, separate from the entry to the hall.

9. The third story consists of the passages to the different galleries, and committee rooms.

10. The four lowest rooms adjoining the rotunda, are 22½ feet high each, and 19 by 37 feet wide, rising 87½ feet above the floor of the basement story. Two of said rooms to be used for water closets (one for the members, and the other for the state officers.) The two other rooms of equal dimensions, are for laboratories to prepare the gas for lighting the building in all its parts. Each of said rooms receiving its light and ventilation from the open court adjoining the same.

11. The four rooms next above these, are for the use of the clerks and sergeants-at-arms of both houses. Next above these, are four committee rooms, and next above these, are the rooms for the water reservoirs.

12. The four open courts extend from the bottom of the cellars to the top of the building. They are entirely excluded from being passed over. The only access to them is from the gas laboratories; and they are not to be used for any thing, but to contain the gas reservoirs, on a level with the surface of the ground, about 18 feet in diameter, by 14 feet deep, each.

13. Explanation of the letters on the plat.

First Story.

The 6 rooms marked A, are for the use of the Auditor of State.

The 3 rooms marked B, are for the use of the Secretary of State.

The 3 rooms marked C, are for the use of the Treasurer of State.

The 2 rooms marked D, are for the use of the Governor.

The 3 rooms marked E, are for the use of the Board of Public Works.

The 2 rooms marked F, and G, are for the use of the Adjutant and Quarter Master General.

The 2 rooms marked H, are for the use of the Clerks of Court.

The 1 room marked I, is for the use of the Supreme Court.

The 4 rooms marked J, are for the use of the Clerks and Sergeant-at-Arms.

The 4 K's signify the four open courts.

Second Story.

A.—State Hall, for the use of the House of Representatives.

B.—Senate Hall.

C.—Library.

L. and J.—Committee rooms, two stories.

K.—Open Courts.

N. B. As a matter of course, said rooms may be assigned for the use of the several state offices, in a different order; the principal object of the above arrangement being to show the sufficiency of rooms.

(D.)

The advantages of the new plan for the interior arrangement of the new State House, compared with those of the old plan.

1. By the new plan, the open courts extend from the top of the building down to the bottom of the cellar floors, furnishing light and ventilation to all the adjoining rooms;—while, by the old plan, said courts are to be vaulted over on a level with the floor of the first story, thereby excluding all light and ventilation from all the cellar rooms adjoining said four courts on both sides.

2. By the new plan, said open courts are excluded from all ordinary passage, the only means to keep them clean;—while, by the old plan, said courts furnish the only passage to the privies, and to the rooms adjoining the rotunda, whereby they cannot fail to become the receptacles of all kinds of filth, generating unwholesome vapours, instead of furnishing healthy ventilation for the adjoining rooms.

3. By the new plan, the four cellar rooms adjoining the rotunda are 22½ feet high, and 19 by 37 feet wide, each amply lighted and ventilated, furnishing two rooms well adapted for the use of gas laboratories, and two other rooms amply sufficient in size, ventilation and light, and properly remote, (although of easy access) for water closets; while, by the old plan, the cellar story being entirely excluded from light and ventilation, there is no room fit for either of said purposes; and the water closets, small holes of 4 by 6, without light and air, are carved into the walls of the corners adjoining the rotunda.

4. The new plan furnishes safe and sufficient reservoirs for the gas, to light the building in all its parts; while, by the old plan, there is no place in the whole building fit for a gas reservoir, the open courts being vaulted over.

5. The new plan furnishes, on a level, an uninterrupted view of the entrance hall from one end of the building to the other; and an uninterrupted access from and to all rooms in each story; while, by the old plan, the view of the entrance hall is interrupted, the floor of the rotunda, which is elevated six feet above the floor of said hall, and access from the rooms of one wing to the rooms of the other wing of the same story, can only be had by passing up and down stairs

6. By the new plan, all the rooms adjoining the rotunda are of easy and permanent access, as any other room in the building; while, by the old plan, said rooms can only be reached by way of outside galleries patched to the walls of the open courts.

7. The new plan furnishes a STATE HALL proportionate to the building, and the objects thereof; while, by the old plan, the second story is subdivided in apartments of such dimensions, that the erection of so large a building was both unnecessary and unwise, if no larger and more commodious halls were intended.

8. By the new plan, the entries to the halls are separate and apart from those leading to the galleries; while, by the old plan, the galleries are only accessible through the entries to the halls.

9. By the new plan, a single door under the control of the librarian, will exclude from access all the rooms belonging to the legislative department, during the intervals between the sessions of the legislature, without interrupting the free communication between the library and all the other rooms in the building; while, by the old plan, every part of the building must be constantly thrown open and exposed.

10. The new plan provides in a systematic arrangement, a sufficient number of rooms of the proper size, all amply lighted and ventilated, for all the principal and accidental business to be done in the building; while the old plan does not provide for some of the most indispensable rooms.

11. The new plan provides for easy ways of access to every room in the building; as permanent as the building itself; while, by the old plan, all the rooms adjoining the rotunda, in the 2d and 3d stories can be acceded only by way of out-door galleries; certainly a most frail and unfit way of connecting the different parts of a new building, intened to last for a thousand years, and for which the people are to be taxed to the amount of half a million of dollars.

12. And last, not least, the expenses for executing the new plan, will by no means surpass the expenses necessary to arrange the building according to the old plan.

Your committee deems it to be a solemn duty to call your attention to the fact, that now is the only time and the last time, when the alternative proposed by the new plan can be made, without throwing away the work already done. It is in the power of the present General Assembly, to adopt a plan for the interior arrangement of the new state house, suitable to the wants of the people, and the government of this great and growing state; and the responsibility of having unwisely squandered the people's money, will rest upon the members of this General Assembly, if they appropriate the large amount of money demanded by the commissioners, to be expended in executing a plan incompatible with the objects of said building.

Your committee cheerfully admits the necessity of a new state building, and has no objection to the finishing of that already commenced; although a building of less expense would have been preferable for the present. But the foundation and a great part of the basement story being already completed, at a heavy expense, it is now too late to take retrograding steps. The best policy is to push on the work to completion, in the most systematic manner possible.

In adopting a plan for the interior arrangement, care should be taken, that the different apartments be of sufficient size to accommodate any reasonable number of representatives and senators, which the people by adopting a new constitution, may think proper to elect. And equal attention should be paid to the fact, that the people at whose expense this building is to be erected, at all times when the legislature is not in session, should have a STATE HALL in this, the central and best accessible point of the state, where their delegates, without distinction of party can meet in council. The idea, that the halls in this building should be locked up against the people, is too aristocratic to be entertained by any true republican; and the subdivision of the interior into small apartments, unfit for conventions of the people, is certainly no better than locking the people out.

THE STATE HALL, as laid down by the new plan, having about the same dimensions as the hall of representatives in congress, will answer the purposes of legislation, as well as of conventions, and will admit in its galleries such number of spectators, as may be reasonably expected from a population of near two millions of inhabitants. The place de-

signated the representatives hall, in the old plan, will answer neither of these purposes.

The objection against a state hall of sufficient dimensions to be made in the beginning, because alterations might be made afterwards, can certainly not be serious. No wise man building a house, would persist upon a plan, that he knows will be impracticable, as soon as the house is finished.

Or, are the commissioners of the state building to dictate to the people of Ohio, the ratio of representation, under a new constitution, by fitting up apartments, which will accommodate the number designated by said commissioners, and no more? Is the new constitution, which the people of this state will adopt, to conform to the new state house?

The objection, that a legislative body is not qualified to judge, as to the propriety of a plan for the new state house; raised in favor of the unlimited power over the interior arrangement, attempted to be exercised by said commissioners, is equally unfounded. Admitting the members to be *no architects* by profession, then they are, in this respect, upon a perfect equality with the said commissioners, *who are no architects*. The judgment of each rests upon his own good sense alone; and your committee is decidedly of the opinion, that herein members will bear a favorable comparison with the commissioners.

Your committee would therefore beg leave to recommend a careful examination of both the old plan, and of the new plan. A copy of the new plan is herewith submitted and made a part of this report. Offering at the same time for adoption, the following resolution, viz :

"Resolved by the General Assembly of the State of Ohio, That the plan reported by the select committee on the memorial concerning the new state house, be, and the same is hereby adopted as the plan for the interior arrangement of the new state house; and that the commissioners of the new state house are hereby instructed to complete said interior arrangement in conformity with said plan."

All of which is respectfully submitted by

HENRY ROEDTER,
Select Committee.

REPORT

OF THE

COMMITTEE RESPECTING WESTERN RESERVE SCHOOL LANDS.

IN HOUSE—Feb. 20, 1849.

The Select Committee to whom the resolution respecting the Western Reserve School Lands, was referred, respectfully report:

That under the laws of the United States, of March 3d, 1803, and of June 19th, 1834, there was granted to the State of Ohio, for the support of schools upon the Connecticut Western Reserve, a quantity of lands, within said State, equal, in the aggregate, to one thirty-sixth part of said Reserve, that being the proportion granted by the United States, for like purposes to the residue of the State.

The entire area of the counties composing the Western Reserve, is 3,336,921 acres, one thirty-sixth part of which is 93,525½ acres. Of this last quantity, by the act first named, there was granted to the State for the above purpose, 55,767½ acres, which were located in the counties of Holmes and Tuscarawas, and by the latter act, the additional quantity of 37,758 acres, being the residue of the grants. The lands in the counties of Holmes and Tuscarawas, have been selected and sold, and the proceeds invested in the Western Reserve School Fund. Those granted by the act of 1834, remain unsold, and a very considerable portion of them are yet to be obtained from the general government.

In conformity with this latter act, and in pursuance of instructions from the Commissioner of the General Land Office, Gov. Lucas, in the month of September next after its passage, appointed Daniel Kerr, of Lake county, agent of the State to make the entries and selections of the lands to which the State was entitled under it. The agent soon after his appointment entered upon the duties of his agency, completed his selections in the spring following, amounting to 37,786 89-100 acres, and made return of a schedule of them to the Office of the State Executive, May 1835. A copy of this list of selections is appended to this report. The lands comprised in it are found in the present counties of Putnam, Defiance, Henry, Williams, Paulding and Van Wert. This list was afterwards submitted to the President of the

United States, for his approval, and for some cause, not known to your committee, no part of it received his sanction till the month of February, 1837. At that date, as appears from a communication from the Commissioner of the General Land Office, now in the office of the Governor, under date of November 11, 1848, the President gave his approval to 29,403 02-100 acres only of those sections, leaving unapproved of those selected, 8,383 01-00, and a real deficiency in the quantity to which the State is entitled, of 8354 2-100 acres. Your committee have prepared and appended to this report separate lists of these lands exhibiting those approved by the President as well as those not approved. The reasons for withholding the sanction of the President from so large a portion of these lands do not fully appear to the committee, but it is believed, that the larger portion of those not approved, either prior to May 19, 1834, or between that date and the month of February, 1837, had been appropriated as Ohio canal lands. Whatever may be the truth in this particular, the fact of the deficiency and the extent of it are certain, and it is equally certain, that land to the amount of that deficiency still remains due to this State from the United States, under the act in question.

The committee appointed by the last General Assembly upon the subject of these lands, do not, at the time they made their report, appear to have been apprised of the fact that all of the original selections had not been approved, nor does this deficiency appear to have been discovered till since the adjournment of the last Legislature. No measures have been taken to supply it. It is not supposed that any further legislation, either by this State or by the United States, is necessary in the premises. It is believed that the powers of the Governor and those of the Executive Departments at Washington, are sufficient under the law, as it now stands, and that the United States still own unsold lands in this State that would be subject to selection and entry under the act of 1834. Your committee therefore recommend that the Governor be requested to take such measures as, in his discretion, he may deem proper to insure the selection, and to secure to this State the title to the lands still due, and they accordingly accompany their report with a resolution to be submitted for that purpose.

By an act of the General Assembly, passed February 8, 1848, the inhabitants of the Western Reserve, were authorized at the ensuing October election, to give their assent to the sale of these lands. That assent was then given. The same act provides that, in case of sale, the lands should be appraised at their cash value, and that they should not be sold for less than the appraisal; and it also contemplated further legislation in respect to the mode, time, and terms of the sale. For the purpose of securing these objects, and of carrying into effect the will of the people as already indicated in respect to the disposition of the lands, your committee have reported a bill which is herewith submitted.

WHEREAS, under the Act of Congress, June 19, 1834, there is now due to the State of Ohio, for the support of Schools upon the Connecticut Western Reserve, 8354 acres of land, as a portion of the grant made by the act aforesaid—Therefore:

Be it resolved by the General Assembly of the State of Ohio, That the Governor be requested, at his earliest convenience, to take measures **as**, in his discretion, he shall deem proper for the speedy settlement of said claim, and for the securing to the State, the lands still due under the grant.

All of which is respectfully submitted,

N. L. CHAFFEE,
S. W. McCLURE,
J. T. MORSE,
GEO. REBER,
J. E. JOHNSON.

LIST OF SCHOOL LANDS

Selected by DANIEL KERR, as Agent of the State of Ohio, in the year 1834 and 1835, under the Act of Congress of June 19, 1834, making a grant of Lands to said State for the support of Schools upon the Connecticut Western Reserve:

(See original List on file in the office of the Governor.)

PUTNAM COUNTY.

Sect.	What part of Section.	Tp.	R'ge.	No. of Acres.	Total.
18	South half and n e quar	1 S.	6 E.	482.16	
19	All of	1 "	6 "	648.67	
30	All of	1 "	6 "	644.38	
10	South half and n w quar	1 "	6 "	480.00	
11	South half and w half of n e quar .	1 "	6 "	400.00	
12	All except west half of n w quar..	1 "	6 "	560.00	
32	North half south e quar	1 N.	6 "	480.00	
33	All of	1 "	6 "	640.00	
4	North half and south e quar	2 "	5 "	480.00	
9	All of	2 "	5 "	640.66	
15	All of	2 "	5 "	640.00	
5	North west quar	2 "	5 "	151.57	
21	North half	2 "	5 "	320.00	
14	South half	2 "	5 "	320.00	
23	North half	2 "	5 "	320.00	
19	South west quarter	2 "	6 "	163.20	
9	All of	1 "	5 "	640.00	
10	North half	1 "	5 "	320.00	
15	All except frac n side river } and n w frac south side } 1 "	5 "	533.62	-8,865.26

DEFIANCE COUNTY.

29	East half	3 N.	5 E.	320.00	
18	All of	3 "	5 "	584.60	
32	N e quar	3 "	5 "	180.00	
28	All of	3 "	5 "	640.00	
30	South w quar	3 "	5 "	127.44	
13	All of	3 "	4 "	610.00	
23	All of	5 "	5 "	640.00	
21	All of	5 "	5 "	640.00	
22	S e quar and e half n e quar	5 "	5 "	210.00	
2	N e quar and w half of s e quarter	5 "	5 "	239.91	-4,331.95

LIST OF SCHOOL LANDS—Continued.

HENRY COUNTY.

Sect.	What part of Section.	Tp.	R'ge.	No. of Acres.	Total.
3	All of	5 N.	6 E.	610.00	
4	All of	5 "	6 "	640.00	
5	All of	5 "	6 "	640.00	
7	All of	5 "	3 "	640.00	
8	All of	5 "	6 "	640.00	
9	All of	5 "	6 "	640.00	
10	All of	5 "	6 "	640.00	
24	All except e half of s e quar	6 "	6 "	590.00	
34	All of	6 "	6 "	640.00	
12	All of	6 "	6 "	640.00	
13	North e quar	6 "	6 "	160.00	
9	N e quar	6 "	7 "	160.00	
4	S e quar and west half of n. e quar	6 "	7 "	201.73	
8	East half	6 "	7 "	320.00	
18	All of	6 "	7 "	637.20	
4	All of	6 "	8 "	615.40	
9	All of	6 "	8 "	640.00	
4	All of	4 "	7 "	659.86	
5	All of	4 "	7 "	659.08	
3	All of	4 "	7 "	658.66	
10	All of	4 "	7 "	640.00	
13	All of	4 "	6 "	640.00	
14	All of	4 "	6 "	610.00	
24	All of	4 "	6 "	640.00	
25	All of	4 "	6 "	640.00	
7	All of	4 "	7 "	641.36	14,893.29

WILLIAMS COUNTY.

1	Whole except n half of n w quar..	6 N.	1 E.	559.37	
11	East half	6 "	1 "	320.00	
3	S $\frac{1}{2}$ ex. on s side riv & s e $\frac{1}{4}$ of n e $\frac{1}{4}$	6 "	1 "	335.05	
10	North west quar	6 "	1 "	160.00	
31	All except most northerly fraction.	7 "	2 "	641.63	
30	All except most southerly fraction.	7 "	2 "	606.17	
19	All except frac e side river	7 "	2 "	646.55	
20	All except frac w side river	7 "	2 "	579.33	
26	All of	7 "	1 "	640.00	
35	All except s e fraction	7 "	1 "	629.96	
36	All except s e fraction	7 "	1 "	518.61	
34	West half	6 "	2 "	320.00	
33	East half	6 "	2 "	320.00	6,276.67

LIST OF SCHOOL LANDS—Continued.

VAN WERT COUNTY.

Sect.	What part of Section.	Tp.	R'ge.	No. of Acres.	Total.
13	South half	2 S.	2 E.	320.00	
24	All of	2 "	2 "	640.00	
1	South half	2 "	2 "	320.00	
12	East half	2 "	2 "	320.00	1,600.00

PAULDING COUNTY.

35	All of	1 N.	3 E.	640.00	
36	All of	1 "	3 "	640.00	
31	All of	1 "	4 "	639.72	1,919.72

Counties.	No. of Acres.
Putnam	8,865.26
Defiance	4,231.95
Henry	14,893.29
Williams	6,276.67
Van Wert	1,600.00
Paulding	1,919.72
Total	37,786.89 in all selected.

LIST OF LANDS

Comprised in the foregoing Schedule made as aforesaid, under the Act of June 19, 1834, and approved by the President of the United States, February 3, 1837, as certified by Richard M. Young, Commissioner of the General Land Office, under date of November 11, 1848.

PUTNAM COUNTY.

Sect.	What part of Section.	Tp.	R'ge.	No. of Acres.	Total.
18	South half and n e quar	1 S.	6 E.	482.26	
19	All of	1 "	6 "	616.67	
30	All of	1 "	3 "	644.38	
10	North w quar and south e quar ..	1 "	3 "	320.00	
11	South half of	1 "	6 "	320.00	
12	South half and n e quar	1 "	6 "	480.00	
32	North half and s e quar	1 N.	6 "	480.00	
33	All of	1 "	6 "	640.00	
4	North half and s e quar	2 "	5 "	480.66	
9	All of	2 "	5 "	640.00	
15	All of	2 "	5 "	640.00	
5	North west quar	2 "	5 "	154.57	
24	North half	2 "	5 "	320.00	
14	South half	2 "	5 "	320.00	
23	North half	2 "	5 "	320.00	
19	South west quar	2 "	6 "	163.20	
9	All of	1 "	5 "	640.00	
10	North half	1 "	5 "	320.00	
15	South half	1 "	5 "	316.87	-8,328.61

DEFIANCE COUNTY.

29	East half	3 S.	5 E.	320.00	
18	All of	3 "	5 "	384.60	
32	North e quar	3 "	5 "	160.00	
28	All of	3 "	5 "	640.00	
30	South west quar	3 "	5 "	127.44	
13	All of	3 "	4 "	640.00	
23	All of	5 "	5 "	640.00	
24	All of	5 "	5 "	640.00	
22	South e quar	5 "	5 "	160.00	
2	North e quar	5 "	5 "	160.41	-4,072.45

LIST OF LANDS—Continued.

HENRY COUNTY.

Sect.	What part of Section.	Tp.	R'ge.	No. of Acres.	Total.
4	All of	5 N.	6 E.	640.00	
5	All of	5 "	6 "	640.00	
8	All of	5 "	6 "	640.00	
24	West half	6 "	6 "	320.00	
34	All of	6 "	6 "	640.00	
12	All of	6 "	6 "	640.00	
13	North e quar	6 "	6 "	160.00	
9	North e quar	6 "	7 "	160.00	
4	South e quar	6 "	7 "	160.00	
18	All of	6 "	7 "	637.20	
4	All of	6 "	8 "	615.40	
9	All of	6 "	8 "	640.00	
4	All of	4 "	7 "	639.86	
3	All of	4 "	7 "	658.66	
10	All of	4 "	7 "	640.00	
14	All of	4 "	6 "	640.00	
24	North west quar	4 "	6 "	160.00	
25	All of	4 "	6 "	640.00	9,291.12

WILLIAMS COUNTY.

1	South half	6 N.	1 E.	320.00	
11	East half	6 "	1 "	320.00	
3	South west quar	6 "	1 "	160.00	
10	North west quar	6 "	1 "	160.00	
19	West half	7 "	2 "	373.94	
20	North half and south east quar	7 "	2 "	452.89	
30	North half	7 "	2 "	325.75	
31	South east quar	7 "	2 "	160.00	
26	All of	7 "	1 "	640.00	
35	West half and north e quar	7 "	1 "	480.00	
36	North west quar	7 "	1 "	160.00	
33	East half	6 "	2 "	320.00	
34	West half	6 "	2 "	320.00	4,192.08

VAN WERT COUNTY.

1	South half	2 S.	2 E.	320.00	
12	East half	2 "	2 "	320.00	
13	South half	2 "	2 "	320.00	
24	All of	2 "	2 "	640.00	1,600.00

LIST OF LANDS—*Continued.*

PAULDING COUNTY.

Sect.	What part of Section.	Tp.	R'ge.	No. of Acres.	Total.
35	All of	1 N.	3 E.	640.00	
36	All of	1 "	3 "	640.00	
31	All of	1 "	4 "	639.72	1,919.72

Counties.	No. of Acres.
Putnam	8,328.61
Defiance	4,072.45
Henry	9,291.12
Williams	4,192.08
Van Wert.....	1,600.00
Paulding	1,919.72
Making in all	29,403.98
	Approved by the President.

LIST OF LANDS

Comprised in the aforesaid selections, under date of June 19, 1834, and not yet approved by the President, so far as appears.

PUTNAM COUNTY.

Sect.	What part of Section.	Tp.	R'ge.	No. of Acres.	Total.
10	South west quarter	1 S.	6 E.	160.00	
11	West half of n west quar	1 "	6 "	80.00	
12	East half of north w quar	1 "	6 "	80.00	
15	North half except fraction	1 N.	5 "	216.75	—536.75

DEFIANCE COUNTY.

22	E half of north e quar	5 N.	5 E.	80.00	
2	West half of south e quar	5 "	5 "	79.50	—169.50

HENRY COUNTY.

3	All of	5 N.	6 E.	640.00	
7	All of	5 "	6 "	640.00	
9	All of	5 "	6 "	640.00	
10	All of	5 "	6 "	640.00	
24	N e quar and w half of s e quar ..	6 "	6 "	260.00	
4	West half of n e quar. part of	6 "	7 "	41.73	
8	East half	6 "	7 "	320.00	
5	All of	4 "	7 "	659.08	
13	All of	4 "	6 "	640.00	
24	South half of n e quar	4 "	6 "	480.00	
7	All of	4 "	7 "	641.36	—5,602.17

WILLIAMS COUNTY.

1	N e quar and south half of n w ¼ ..	6 N.	1 E.	239.37	
3	S e ¼ ex. frac s side & s e ¼ of n e ¼	6 "	1 "	175.05	
19	East half except fraction	7 "	2 "	272.61	
20	South west quarter	7 "	2 "	126.94	
30	South half except fraction	7 "	2 "	280.42	
31	N half and s w quar except frac ..	7 "	2 "	481.63	
35	South e quar except frac	7 "	1 "	149.96	
36	East half and south w quar	7 "	1 "	358.61	—2,084.59
Making in all not approved					8,383.01

RECAPITULATION.

LANDS APPROVED.		LANDS NOT APPROVED.	
Counties.	Acres.	Counties.	Acres.
Putnam	8,328.61	Putnam	536.75
Defiance	4,072.45	Defiance	159.50
Henry	9,291.12	Henry	5,602.17
Williams	4,192.08	Williams	2,084.95
Van Wert	1,600.00		
Paulding	1,919.72		
In all.....	29,403.98	In all	8,383.01

	Acres.
Due under the Act of June 19, 1834,	37,758.00
Approved of those heretofore selected	29,403.98
Still due	<u>8,354.02</u>

REPORT

OF THE

STANDING COMMITTEE ON PUBLIC WORKS ON THE PETITION OF ENOS MANNING.

The Standing Committee on Public Works, to which was referred the petition of Enos Manning of Miami county, praying for the passage of a law authorizing him "to commence and prosecute a suit at law against the State," etc.; have had the same under consideration and

REPORT

That upon examination of the Records in the office of the Board of Public Works, it appears that on the eleventh of November 1841, William Werden, R. D. Forsman and James McBride, appraisers of damages on the Miami Canal, made an award in favor of said Enos Manning for \$1500. The appraisers state that a feeder dam erected by the state—"will *altogether destroy* the said Enos Manning's Mill-seat, and render the mill of *no value*,—therefore the said appraisers are of the opinion that the said Enos Manning has sustained and will sustain damage over and above the benefits and advantages received by him from the Miami Canal, to the amount of *one thousand five hundred dollars*," &c. This amount was paid to Mr. Manning—and it would seem from the award that the appraisers considered it an ample satisfaction for the injury sustained.

Subsequent to the payment of this award, Mr. Manning renewed his application for damages on the same lot of ground. This claim was, by the acting commissioner of Public Works, again referred to the State appraisers, now consisting of James McBride, John Taylor and Daniel H. Jones. These gentlemen went upon and reviewed the premises and made a second award amounting to \$450.—In making this award it is understood that the appraisers treated the claim as that of a riparian proprietor of a water privilege on a navigable stream whose rights were fully defined by law. Hence if the appraisers did their duty and did not err in judgment, it would seem that the petitioner has

received the value of the property injured. Your committee will state that this last award of \$450, was also paid on December 25th, 1849.

All of which is respectfully submitted by your committee, who ask to be discharged from further consideration of said petition.

L. GIDDINGS,
J. D. RINGWOOD,
WM. DURBIN,
C. P. EDSON,
R. F. HOWARD,
Com. on Pub. Works.

REPORT

OF THE

STANDING COMMITTEE ON UNFINISHED BUSINESS.

IN HOUSE—January 16, 1849.

Mr. Hardesty, from the committee on Unfinished Business, made the following

REPORT:

The standing committee on Unfinished Business report the following as the unfinished business of the last session, to wit:

House bill No. 9; To test the sense of the people of this State on the subject of calling a convention to amend the constitution.

H. No. 11; To secure to every family a homestead exempt from execution.

H. No. 52; To extend the time of payment for school section 16, in Royalton township, Lucas county.

H. No. 69; To continue the office of county surveyor, and define his duties.

H. No. 76; To extend and apply the forms of proceeding in chancery to all cases at common law.

H. No. 129; To erect the county of Chester.

H. No. 243; To incorporate the town of Morrow, in the county of Warren.

H. No. 278; To repeal the act entitled "an act to incorporate the town of Canton, in Stark county, and all acts amendatory thereto."

H. No. 318; To authorize road tax to be levied and collected in certain counties.

H. No. 325; To provide for the extinguishment of the public debt of Ohio.

H. No. 330; To provide for the construction of a side-cut connecting the Wabash and Erie Canal with the Maumee river at Napoleon, or a bridge across said river.

H. No. 341; To amend an act entitled an act to provide for the al-

teration and completion of the State road from Painesville, in Lake county, to Bloomfield, in Trumbull county, passed February 19, 1846.

H. No. 393 ; In relation to the militia of this State.

H. No. 394 ; To review and re-locate the seat of justice of Ottawa county.

H. No. 402 ; Providing an adequate compensation for the judges of the several courts of this State, and a fund for the payment of the same.

H. No. 407 ; To authorize Ashbel Chittenden to surrender the lease for, and become the purchaser of the east half of the south-west quarter of school section sixteen, in Scipio township, Seneca county.

Senate bill No. 45 ; For the relief of turnpike companies in which the State is a stockholder.

S. No. 65 ; In relation to the Urbana, Troy and Greenville Turnpike Road Company.

S. No. 120 ; To incorporate the Farmers' and Mechanics' Association of Northern Ohio, at Huron, Erie county, Ohio.

S. No. 131 ; To repeal a part of the act passed February 8, 1847, entitled an act to accept the charter and franchise of the First Range Turnpike Company, in Ashtabula county, and declaring the road a free turnpike road.

S. No. 140 ; For the relief of John Devine, James M. Sawyer and Wm. Sharp.

S. No. 169 ; To amend the act regulating the sale of intoxicating liquors, passed February 8, 1847.

Petition of citizens of Harrison county, for the incorporation of a railroad company, to construct a railroad from Wheeling, by way of Cadiz and Uhricksville, to Columbus.

Petition of citizens of Athens county, relative to the taxation and sale of lands belonging to the Ohio University.

Petition of Samuel Secrets and 208 other citizens of Guernsey and Tuscarawas counties, for the repeal of all laws requiring locks on Will's creek.

Memorial of the heirs at law of Gregory Daugneaux, late of Hamilton county.

Petition of the President and Secretary of the Wheeling and Baltimore Bridge Company, for the assent of the General Assembly of the State of Ohio to a charter granted that company by the Legislature of Virginia.

REPORT

OF COMMITTEE ON PRIVILEGES AND ELECTIONS.

IN HOUSE, JAN. 8, 1849.

And your committee would further report, that on examination of the evidence relating to the seat for which David L. Rockwell is contestor, and George Sheldon, Esq., contestee, it clearly appears that said David L. Rockwell had a majority of the legal votes polled for Representative in the county of Portage. Your committee therefore recommend the adoption of the following resolution :

Resolved, That David L. Rockwell is entitled to a seat in this House as Representative from the county of Portage.

Your committee further report, that having examined the evidence in their possession in the case where Jehu Trimble is contestor and Alanson Jones contestee, do find that said Alanson Jones was, at the time of the general election on 10th of October last, holding the office of Sheriff, in Clinton county, and therefore, under the constitution of Ohio, ineligible as a candidate for a seat in the General Assembly of the State. We do, therefore, report the office of Representative for Clinton county to be vacant, and recommend, in accordance with the petition of said Trimble, the adoption by this House of the following resolution :

Resolved, That the office of Representative of Clinton county is declared vacant, and the election is therefore referred back to the people of said county.

N. S. TOWNSEND,
M. PENNINGTON,
H. ROEDTER,
B. F. LEITER,
G. HARDESTY.

OF ROCKWELL AND
COUNTY.

of Common Pleas for
do hereby certify that,
in the second Tuesday in
was duly elected a Rep-
County of Portage.
scribed my name and af-
fourteenth day of Octo-
E. Y. BEEBE, Clerk.

County of Portage at the
day of October, A. D.
ature.

	22	Geogge Sheldon.
22	161	Daniel L. Rockwell.
	132	D. L. Rockwell.

The State of Ohio, Portage County, ss.

I, Horace Y. Beebe, Clerk of the Court of Common Pleas for the county of Portage and State aforesaid, do hereby certify that the foregoing is a true copy of the abstract of votes given for Representative in the State Legislature, as taken from the original abstract in my office.

Given under my hand and the seal of said court this twenty-seventh day of November, A. D. 1848.

HORACE Y. BEEBE, *Clerk.*

[A]

POLL BOOK of the election held in the township of Windham, in the county of Portage, on the tenth day of October, in the year of our Lord, one thousand eight hundred and forty eight.

Edmund Yale, Willis Strickland and Philander Robbins, judges, and Theron Wales and Milton J. Snow, clerks of said election, were severally sworn as the law directs, previous to their entering on the duties of their respective offices.

Number and Names of Electors.	Number and Names of Electors.
1 Stephen B. Pulsifer.	20 Horace Odell.
2 Harvey Millard.	21 John Wait.
3 Marvin Hoskins.	22 Russel Bigelow.
4 Newell White.	23 Lot Bristol.
5 Laban R. Hoskins.	24 Leavitt Hewins.
6 Milton J. Snow.	25 Israel Birchard.
7 Theron Wales.	26 Benjamin Higley.
8 Thomas M. Lyman.	27 Wm. R. Little.
9 Daniel W. Wright.	28 Hiram P. Tinkler.
10 Benjamin F. Pardee.	29 Solon Streater.
11 James H. Huxley.	30 Alpheus F. Streater.
12 Wm. C. Adams.	31 George Miller.
13 Simon Sinkler.	32 Samuel H. Pardee.
14 Wm. Case.	33 Ephraim L. Williams.
15 Harvey Brigham.	34 Charles A. A. Pardee.
16 Joel Bradford.	35 Samuel Wale.
17 Oscar A. Messenger.	36 Harley G. DeLong.
18 Sylvester F. Conant.	37 Amos H. Parsons.
19 Oaman Bliss.	38 John Hough.

POLL BOOK—Continued.

Number and Names of Electors.

39 David Bristol.
 40 William R. Martzell.
 41 Oliver M. Alford.
 42 Ezra S. Goodsel.
 43 Nathaniel Wales.
 44 Asaph Wales.
 45 Stephen Pond.
 46 Levi Alford.
 47 Dillingham Clark.
 48 Aaron R. Millard.
 49 Monroe Palmiter.
 50 Hiram Pierce.
 51 Linus Scott.
 52 Peter Lahman.
 53 Thomas E. Frary.
 54 Adolphus Pierce.
 55 Edward W. Williams.
 56 Wm. H. Canfield.
 57 Jonathan W. Kingsley.
 58 Cornelius Eggleston.
 59 Zelophehad Wadsworth.
 60 Clemon J. Kingsley.
 61 Alvan Smith.
 62 Luke Strickland.
 63 Henry W. Ingraham.
 64 Alfred M. Higley.
 65 Wm. F. Millikan.
 66 Frederic Palmer.
 67 John S. Davis.
 68 John A. Messenger.
 69 Joseph C. Ensign.
 70 Gideon A. Bush.
 71 Wm. A. Messenger.
 72 Wm. B. Messenger.
 73 John Cotton.
 74 Russel Griffin.
 75 Francis Burlicum.
 76 John H. Tagg.
 77 Robert M. Higley.
 78 Thomas Williams.
 79 Joshua Walden.
 80 Henry E. Canfield.
 81 James B. Palmer.

Number and Names of Electors.

82 Andrew J. Parsons.
 83 Wm. S. Noble.
 84 Cornelius G. Frary.
 85 David B. Kingsley.
 86 Stanley Chapman.
 87 Ezra Bradford.
 88 Robert Williams, jr.
 89 Jonah L. Odell.
 90 Joseph DeLong.
 91 Alanson Jagger.
 92 Alfred Pardee.
 93 David F. Whitford.
 94 Nathan H. Messenger.
 95 Andrew J. Pardee.
 96 Lorin N. Moses.
 97 Samuel Wales, Jr.
 98 Stillman Scott.
 99 William E. Bigelow.
 100 Henry A. Higley.
 101 William Millikan.
 102 Moses A. Birchard.
 103 Ephraim Williams.
 104 Henry J. Wolcott.
 105 Oliver B. Millard.
 106 Nathan A. Birchard.
 107 Allen Conklin.
 108 John A. Wadsworth.
 109 Daniel Pardee.
 110 Aaron P. Jagger.
 111 Zenas T. Bierce.
 112 Barzillai L. Alford.
 113 Philip Russel.
 114 Erastus Snow.
 115 Elmer D. Wadsworth.
 116 Stephen Pardee.
 117 Moses Jacobs.
 118 George Sinkler.
 119 Hiram S. Chapman.
 120 Austin Odell.
 121 Levi Jacobs, Jr.
 122 Jesse Lyman.
 123 John Smith.
 124 Wm. A. Messenger.

POLL BOOK—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
125 Benjamin Pulsifer.	158 Levi Bush.
126 Eber Earl.	159 Benjamin Angel.
127 John Myers.	160 Isaac M. Clark.
128 Oliver Alford.	161 Hiram Lane.
129 Wm. B. Washington.	162 Elizur Wright.
130 John Streator.	163 Ebenezer B. Poor.
131 Wm. A. Perkins.	164 Worcester Bliss.
132 Ebenezer N. Messenger.	165 Edward F. Clark.
133 Daniel Jagger.	166 Wilson L. Messenger.
134 Robert R. Earl.	167 Charles B. Fay.
135 Samuel Palmer.	168 William S. Bassel.
136 Philip Russel, Jr.	169 Jonathan Pulsifer.
137 Hezekiah Lane.	170 Franklin Hart.
138 Edwin Bradford.	171 Ebenezer W. Earl.
139 Edmund Yale.	172 Warren W. Hinman.
140 Philander Robbins.	173 George B. Conant.
141 Leander T. Conant.	174 John Hutson.
142 Amos Perkins.	175 David M. Robbins.
143 Robert Earl.	176 Jasper A. Morgan.
144 Lyman Pulsifer.	177 Oliver D. Frost.
145 Champion Smith.	178 David S. Spencer.
146 John L. Higley.	179 Sterling Chapman.
147 Asher N. Pardee.	180 George Davis.
148 James Seley.	181 James L. Wadsworth.
149 Alonzo A. Messenger.	182 Homer M. Gillett.
150 Samuel W. Wood.	183 James C. Udall.
151 Henry S. Robbins.	184 Linus A. Daniels.
152 Robert J. Bell.	185 Thatcher A. Conant.
153 Samuel Southee.	186 Samuel Robbins.
154 Joseph Angel.	187 Willis Strickland.
155 Sheldon Palmer.	188 Azariah S. Robbins.
156 Phinehas W. Bush.	189 Joseph Davis.
157 Linus S. Perkins.	

It is hereby certified that the number of electors at this election amounts to one hundred and eighty-nine.

WILLIS STRICKLAND, } *Judges of*
 EDMUND YALE, } *Election.*
 PHILANDER ROBBINS, }

Attest: MILTON J. SNOW, } *Clerks.*
 THERON WALES, }

Names of persons voted for, and for what offices, containing the number of votes given for each candidate :

For Governor.

Seabury Ford	160 votes.
John B. Weller	28 "

For Representative in Congress.

John Crowell	158 "
Rufus P. Ranney	28 "

For Senator.

Peter Voris	161 "
Lucian Swift	28 "

For Representative in the State Legislature.

David L. Rockwell	161 "
George Sheldon	28 "

For Sheriff.

Artemas W. Stocking	152 "
John Gillis	36 "

For Auditor.

Enos P. Brainerd	151 "
John G. McBride	38 "

For Commissioner.

Carnot Mason	161 "
Frederic Daniels	28 "

For Coroner.

Erasmus Needham	161 "
James Woodard	28 "

For Director of Poor House.

Daniel W. Jennings	161 "
Lyman Hine	28 "

We do hereby certify that Seabury Ford had 160 votes for Governor, John B. Weller had 28 votes for Governor. John Crowell had 158 votes for Representative to Congress; Rufus P. Ranney had 28 votes for Representative to Congress. Peter Voris had 161 votes for Senator, and Lucian Swift had 28 votes for Senator. David L. Rockwell had 161 votes for Representative in the State Legislature, and George Sheldon had 28 votes for Representative in the State Legislature. Artemas W. Stocking had 152 votes for Sheriff, and John Gillis had 36 votes for Sheriff. Enos P. Brainerd had 151 votes for Auditor, and John G. McBride had 38 votes for Auditor. Carnot Mason had 161 votes for Commissioner, and Frederic Daniels had 28 votes for Commissioner. Eras-

mus Needham had 161 votes for Coroner, and James Woodard had 28 votes for Coroner. Daniel W. Jennings had 161 votes for Director of Poor House, and Lyman Hine had 28 votes for Director of Poor House.

WILLIS STRICKLAND,
PHILANDER ROBBINS,
EDMUND YALE, } *Judges of
Election.*

Attest: THERON WALES, }
MILTON J. SNOW, } *Clerks.*

[B]

POLL BOOK of the Election held in the township of Franklin in the county of Portage and State of Ohio, on the tenth day of October, in the year of our Lord one thousand eight hundred and forty-eight.

John Perkins, Giles Hodges and Robert Clark, Judges, and H. C. Newberry and J. P. Carver, Clerks of said election, were severally sworn as the law directs, previous to their entering on the duties of their respective offices.

Number and Names of Electors.	Number and Names of Electors.
1 Chs. L. Rhodes.	21 Geo. Olin.
2 Fred. Woodbridge.	22 D. Connelly
3 J. V. Gardner.	23 H. B. Clark.
4 Wm. Bassel.	24 C. Babbitt
5 J. Christopher.	25 Wm. L. Russell.
6 B. F. Anderson.	26 B. F. Hopkins.
7 S. W. Russell.	27 Ed. Dewey.
8 Wm. B. Price.	28 O. W. Gillett.
9 J. Edson, jr.	29 Jas. Woodward.
10 J. H. Stoops.	30 Wm. Minigar, jr.
11 S. L. Damny.	31 Wm. Swartwout.
12 Rufus Fessenden.	32 J. V. Johnson.
13 Golden Brown.	33 N. Horton.
14 Thos. Earl.	34 Jas. Dardin.
15 Alonzo Knowlton.	35 Wm. Woodward.
16 Jas. H. Foster.	36 J. Holcomb.
17 J. H. Pindleton.	37 J. F. Parmele.
18 D. L. Rockwell.	38 Fred. Williard.
19 Arwin Olin.	39 E. W. Lincoln.
20 Nelson Olin.	40 T. W. Chapman.

POLL BOOK—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
41 Wm. Gaylord.	84 J. C. R. Robinson.
42 J. B. Stratton.	85 Wm. Hagle,
43 Jno. Tracy.	86 Chas. Forry.
44 Obediah Post	87 Wm. Bedwell.
45 Geo. M. Greffin.	88 Benj. Hopkins.
46 John Hinson.	89 H. G. Carmar.
47 Chas. Button.	90 Jos. Mark.
48 D. S. Hoyt.	91 Abner Russell.
49 Wm. Miniger.	92 Wm. Stevens.
50 R. Bradley.	93 R. Shurtliff.
51 Wm. T. Lace.	94 Lucius Strong.
52 Ananias Winfield.	95 Sylvester Smith.
53 Robt. McBride.	96 W. T. Knowlton.
54 Geo. Root.	97 Geo. C. Adams.
55 S. W. Root.	98 Alfred Adams.
56 Noah Merrill.	99 D. L. Russell.
57 Norman Merrill.	100 Olmsted White.
58 Wm. Hyman.	101 Dwight Hopkins.
59 Arthur Nelson.	102 Thos. Chapman.
60 F. Merrill.	103 H. Hegal.
61 Mich. Caria.	104 Leonard Smith.
62 Danl. Miller.	105 Thos. Earl.
63 F. W. Agard.	106 W. N. West.
64 Geo. Haymaker.	107 John Haymaker.
65 Henry Hall.	108 John B. Sawyer.
66 L. W. Crittenden.	109 Jas. Harcher.
67 Lyman Williams.	110 Jas. Shurtliff.
68 Aaron Torry.	111 Isaac Whitcomb.
69 Edwin White.	112 D. P. Reed.
70 Horace White.	113 A. Ferry, jr.
71 J. H. Rogers.	114 Benj. Hickox.
72 Jacob Haymaker.	115 Saul Leonard.
73 H. Harlbort.	116 D. Dunbar.
74 J. Van Dusen.	117 Wm. Archer.
75 T. B. Barton.	118 J. Stoddard, (sworn.)
76 J. R. Ferry.	119 B. S. Boydston.
77 Geo. Nedy.	120 Jacob Day.
78 R. G. Root.	121 Thos. Tenney.
79 Geo. B. Smith.	122 T. W. Shurtliff.
80 Jas. Puffer.	123 Jas. Perara.
81 Newton Morris.	124 Wm. James.
82 Marion Kent.	125 H. H. Burn.
83 J. McBride.	126 Ed. Kelley.

POLL BOOK—Continued.

Number and Names of Electors.	Number and Names of Electors.
127 J. A. Davison.	170 N. Smith.
128 Wm. M. Burn.	171 H. Merrill.
129 David Eatinger.	172 A. Swartwart.
130 John Reed, jr.	173 Wm. Laka.
131 Robt. Clark, 2d.	174 Jas. Garrison.
132 John Ferguson.	175 Benj. Prichard.
133 Fred. Leonard.	176 Jas. Carr.
134 Ed. Sturdevant.	177 Wm. Reed,
135 Truman Baldwin.	178 M. Kent.
136 Geo. Snyder.	179 J. D. Haymaker.
137 Henry Snyder.	180 E. W. Crain.
138 Geo. Williard.	181 A. Weaver.
139 Geo. Coy.	182 A. Merara.
140 Geo. Midole.	183 N. Moon.
141 Benj. Philips.	184 J. D. Dewey.
142 Oliver Newbury.	185 Wm. Gridley.
143 Eph. Smith.	186 Ch. Newbury.
144 A. M. Shults.	187 J. F. Clark.
145 Eli Leonard.	188 J. Wilford.
146 N. Stratton.	189 Fred. Whipple.
147 Simon Ruggles.	190 Timo. Graham.
148 Danl. Ferguson.	191 Jas. C. Mond.
149 Isaac Archer.	192 L. Minegar.
150 Albert Knowlton.	193 Geo. B. D. Peyster.
151 Uriah French.	194 C. D. Bushnell.
152 M. W. Bushnell.	195 Peter Cary.
153 E. H. Knowlton.	196 J. H. W. Stoddard.
154 Elihu Luce.	197 S. S. Reynolds.
155 Isaac Whitcomb.	198 Geo. W. Andrew.
156 C. K. Converse.	199 Wm. Knowlton.
157 Nathan Hall.	200 Zeb. Dowd.
158 Eber Phelps.	201 Geo. Cackler.
159 Jas. Swartwart.	202 Ch. Cackler.
160 Henry Doolittle.	203 G. H. Price.
161 Jas. Holden.	204 Sol. Granamyre.
162 H. Murphey.	205 Ed. Cackler.
163 Jas. Cathbert.	206 Wm. Burdick.
164 Rufus Newton.	207 W. Burt.
165 Elisha King.	208 Jona. Nye.
166 John Winchell.	209 Jas. A. Holden.
167 Fred. Cavis.	210 Reub. Reed.
168 M. D. Holden.	211 Ed. Foljamb.
169 N. Kirk.	212 Rich. Hall.

POLL BOOK—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
213 John Baird.	242 S. Higgins.
214 S. G. Russell.	243 J. Woods.
215 Rowland Davey.	244 Dudley Williams.
216 F. Williard.	245 A. Pratt.
217 S. P. Babcock.	246 D. Longcoy.
218 John Philips.	247 Chs. H. Kent.
219 A. Williams.	248 Pat. O. Ronoke.
220 R. L. Shurtliff.	249 H. C. Hontbent.
221 Ed. Williard.	250 J. Newton.
222 C. W. Converse.	251 S. L. Pond.
223 Al. Newton.	252 Ch. Converse.
224 Horace Hall.	253 P. W. Bard.
225 W. Grimes.	254 Oliver Moore.
226 S. Russell.	255 Oscar Newling.
227 Th. Gaylord.	256 D. Pratt.
228 John Davey	257 W. R. Converse.
229 Wm. Hall.	258 Barber Clark.
230 Jona. Shurtliff.	259 J. G. Wallace.
231 Yale Russell.	260 J. B. Nelson.
232 J. H. Reed.	261 H. Frost.
233 J. P. Carver.	262 F. B Pond.
234 Benj. Lonsey.	263 S. S. Clapp.
235 Sol Cole.	264 William Barton.
236 Chas. Waldron.	265 Giles Hodges.
237 Elisha Parmele.	266 H. W. Hart.
238 H. C. Newberry.	267 John Perkins.
239 S. Clapp.	268 Jacob Snyder.
240 G. D. Davison.	269 John Snyder.
241 A. Pratt.	

It is hereby certified that the number of Electors at this election, amount to two hundred and sixty-nine.

Attest :

J. P. CARVER, }
H. C. NEWBERRY. } *Clerks.*

GILES HODGES, }
JOHN PERKINS, } *Trustees.*
ROBERT CLARK, }

NAMES of persons voted for, and for what office, containing the number of votes given for each candidate.

<i>For Governor,</i>		
Seabury Ford	126	votes.
J. B. Weller	137	"
<i>For Congress,</i>		
J. Crowell	134	"
R. P. Ranney	133	"
<i>For Senator,</i>		
Peter Voris	131	"
Lucius Swift	136	"
<i>For Representative,</i>		
D. L. Rockwell	132	"
Geo. Sheldon	129	"
<i>For Commissioner,</i>		
Carnol Mason	131	"
Fred. Daniels	136	"
<i>For Auditor,</i>		
E. P. Brainard	117	"
J. G. McBride	151	"
<i>For Sheriff,</i>		
A. W. Stocking	115	"
John Gillis	150	"
<i>For Coroner,</i>		
E. Needham	131	"
Jas. Woodard	134	"
<i>For Poor House Director,</i>		
D. W. Jennings	134	"
Lyman Hine	133	"

We do hereby certify that Seabury Ford, had one hundred and twenty-six votes for Governor; J. B. Weller, had one hundred and thirty-seven votes for Governor. J. Crowell, had one hundred and thirty-four votes for Representative to Congress; R. P. Ranney, had one hundred and thirty-three votes for Representative to Congress. Peter Voris, had one hundred and thirty-one votes for Senator; Lucius Swift, had one hundred and thirty-six votes for Senator. D. L. Rockwell, had one hundred and thirty-two votes for Representative; George Sheldon, had one hundred and twenty-nine votes for Representative. Carnol Mason, had one hundred and thirty-one votes for Com-

missioner; Frederick Daniels, had one hundred and thirty-six votes for Commissioner. E. P. Brainard, had one hundred and seventeen votes for Anditor; J. G. McBride, had one hundred and fifty-one votes for Auditor. A. W. Stocking had one hundred and fifteen votes for Sheriff; John Gillis, had one hundred and fifty votes for Sheriff. E. Needham, had one hundred and thirty-one votes for Coroner; Jas. Woodward, had one hundred and thirty-four votes for Coroner. D. W. Jennings, had one hundred and thirty-four votes for Poor House Director; Lyman Hine, had one hundred and thirty-three votes for Poor House Director.

GILES HODGES,
JOHN PERKINS, } *Trustees.*
ROBERT CLARK, }

Attest :

J. P. CARVER, } *Clerks.*
H. C. NEWBERRY, }

NOTICE OF CONTEST.

To GEORGE SHELDON,
of Portage County, Ohio.

Dear Sir : As you have been proclaimed duly elected Representative to the House of Representatives of the General Assembly of the State of Ohio, by the clerk of the Court of Common Pleas of this county of Portage, to whom the returns for this said county were made, under and by virtue of the election held on the 10th inst., in said county and state aforesaid; and hold your certificate of election of Representative aforesaid, from said clerk: You are therefore hereby notified that I having been a candidate for Representative to the House of Representatives in said State, at the same election, and being then and now an elector of said county, will contest the validity of your election as such representative, and your right to a seat in the said House of Representatives, upon the following grounds, to wit:

1. Upon the ground that the Judges of election held on the said 10th inst., in the township of Windham, in said county of Portage, made an erroneous return for me to the clerk aforesaid, at his office in Ravenna, of said county, by certifying the vote for Representative given for me, David L. Rockwell, as given for *Daniel* L. Rockwell; whereby you were made to appear to have received, at said election, 28 votes, and myself none at all; whereas I in fact did receive, under my true name of David L. Rockwell, 161 votes.

2. Upon the ground the judges of the said election, held on the 10th inst., in Franklin township, of said county of Portage, made an erroneous return for me to the clerk aforesaid, at his office in Ravenna of said county, by certifying the vote for Representative given for me, David L. Rockwell, as given for E. L. Rockwell, whereby you

were made to appear to have received, at said election, 129 votes, and myself none at all; whereas, I did in fact receive, under my true name of David L. Rockwell, 132 votes.

You are further hereby notified, that Henry L. Tilden, and Israel Forker, Esquires, justices of the peace within and for Ravenna township, in said county of Portage, are the justices of the peace, who will officiate at the taking of the depositions of the parties, to the contest aforesaid, and that they will attend for the purpose of taking the same, at the office of Henry L. Tilden, Esq., on the 31st day of October, A. D. 1848, between ten o'clock A. M., and six o'clock P. M.; and again on the first day of November, and from day to day thereafter, between the hours of ten o'clock A. M., and six P. M., of said last days, respectively, as long as is necessary to close said testimony.

DAVID L. ROCKWELL,

Candidate and elector as aforesaid of the county of Portage.
Thursday, October 19, 1848.

The foregoing is a copy of a notice which I left at the residence of George Sheldon, in Mantua, this 19th day of October, A. D., 1848.

WILLIAM WADSWORTH.

Sworn to and subscribed before me, this 31st day of October, A. D., 1848.

DARIUS LYMAN,

Master Commissioner in Chancery of the Court of Common
Pleas, Portage county and State of Ohio.

DEPOSITIONS of Willis Strickland, Giles Hodges, and others, taken at the Office of Henry L. Tilden, in Ravenna, Portage county, Ohio, on the 31st day of October, A. D., 1848.

Agreeably to the enclosed notice, to be read in evidence in a contested election, before the House of Representatives, of the State of Ohio, wherein David L. Rockwell, of Portage county, Ohio, an elector and candidate for Representative, of said county, in the State Legislature of the State of Ohio, at the election on the 10th of October, 1848, is contestor, and George Sheldon, contestee; and said David L. Rockwell, contestor, contests the right of George Sheldon, contestee, to a seat in the House of Representatives of Ohio, taken before Henry L. Tilden and Israel Forker, justices of the peace of Ravenna, Portage county aforesaid.

Willis Strickland, of the county of Portage, of lawful age, being first duly sworn, as hereinafter certified, deposes and saith:

That he was one of the judges of the election in Windham township, Portage county, Ohio, on the 10th day of October, A. D., 1848,

and officiated as such on that day, and he was the judge that read the tickets as they were counted. It appears from the original poll book, now in possession of the town clerk, that there were one hundred and eighty nine votes polled at said election, and it appears, from said poll books, that David L. Rockwell, had one hundred and sixty one votes, and that George Sheldon had twenty eight votes, for Representative. Directly after the votes were counted, the votes were put into the box, which was placed in the possession of Theron Wales, the township clerk, as I supposed. The ballots and poll book, here presented, appear to be the same that were used on the day of election. He has not seen the tickets or poll book since the election until now.

In this place, the contestor proposes and insists that the tickets or ballots, and poll book, be attached to and made a part of this deposition, and the same is done with the endorsement of the letter A thereon.

WILLIS STRICKLAND.

Philander Robbins, being of lawful age, and duly sworn, as hereinafter certified, deposeth and saith:

That he was one of the judges of the election in Windham township, Portage county, Ohio, on the 10th day of October, 1848, and officiated as such on that day, and he was the judge that strung the tickets as they were counted. He thinks he saw the tickets or ballots after they were counted and strung, put into the ballot box, and locked up by Theron Wales, the township clerk. The ballot box was put into the possession of the township clerk, as he supposed.

The poll book which I hold in my hand, marked A, is the same that was made out at the election referred to; from which it appears, that there were one hundred and eighty nine votes polled for Representative, at said election, and it appears that David L. Rockwell had one hundred and sixty one votes for Representative, and that George Sheldon had twenty eight votes for the same office.

I was the judge that made the returns of said election to the clerk of the Court of Common Pleas.

PHILANDER ROBBINS.

Edmund Yale, of lawful age, being first duly sworn, as hereinafter certified, deposes as follows:

I was one of the judges of the election in Windham township, Portage county, Ohio, on the 10th day of October, A. D., 1848, and officiated as such on that day. I was the judge that took the tickets or ballots out of the box, opened them, and handed the same to Mr. Willis Strickland to read.

After the votes were strung, I think I saw Mr. Theron Wales, the township clerk, put the tickets into the box, and lock them up.

According to the poll book here presented, there were one hundred and eighty nine votes polled for Representative at said election, and from said poll book it appears that David L. Rockwell had one hundred and sixty one votes for Representative, and that George Sheldon had twenty eight votes for the same office.

The poll book here present, marked A, is the same that was made out at said election.

EDMUND YALE.

Also, at the same time and place, Theron Wales, of lawful age, being first duly sworn, as hereinafter certified, deposes as follows :

I am township clerk of Windham,—I was clerk of the election, in Windham township, in the county of Portage, Ohio, held on the 10th day of October, A. D., 1848. I kept the tally of the votes as they were read off by the judges of the election. After the votes were counted and strung, I put them into the ballot box and locked the same. The ballot box, ballots and poll book, have been in my possession since the election, up to the present time, and are the same, here present. The poll book here present, marked A, is the same that was made out at said election.

From the poll book it appears that the whole number of votes, polled for Representative, in Windham township, is one hundred and eighty nine, and from which poll book it also appears that David L. Rockwell received one hundred and sixty one votes for Representative, and that George Sheldon received twenty eight votes for the same office. The poll books were made out by Mr. Milton J. Snow and myself.—One of which is here present, the other was returned to the clerk of the Court of Common Pleas, sealed up as required by law. The one returned to the clerk should have corresponded, and was intended to correspond, with the one here present, marked A, as before referred to.

THERON WALEs.

Also, at the same time and place, Milton J. Snow, of lawful age, being first duly sworn as hereinafter certified, deposes as follows :

I was one of the clerks of the election in Windham township, in the county of Portage, Ohio, held on the 10th day of October, A. D. 1848. I kept the tally of votes as they were read off by the judges of election. After the votes were counted and strung, Mr. Theron Wales, the township clerk, put the ballots in the box, which was locked by him.

The poll book here present, marked A, is the same that was made out at said election by me, and the same is correct. From which it appears that one hundred and eighty nine votes were polled for representative in the State Legislature; and from which it also appears, that David L. Rockwell received one hundred and sixty-one votes for representative in the State Legislature of Ohio, and that George Sheldon received twenty-eight votes for the same office.

The poll book sealed up and returned to the clerk of the court of common pleas, by the judges and clerks of said election, should have corresponded, and was intended to have corresponded, with the one here present.

MILTON J. SNOW.

Also, at the same time and place, Giles Hodges, of lawful age, being first duly sworn, deposes as follows :

I was one of the judges of election in Franklin township, Portage county, Ohio, on the 10th day of October, A. D. 1848, and officiated as such that day. I was the judge that read the tickets, a part of which I took out of the box and a part of them were handed to me

by Mr. Clark, who was also one of the judges. The tickets, after being counted and strung, were put into the ballot box; the box was deposited with Mr. Harvey C. Newberry, the township clerk, and one of the clerks of election, in whose possession it has remained up to this time. There were two hundred and sixty one votes polled for Representative in the State Legislature, of which David L. Rockwell received one hundred and thirty-two votes, and George Sheldon received one hundred and twenty-nine votes. There were no votes polled for any other individuals for representative at said election. The poll books show that D. L. Rockwell received one hundred and thirty-two votes for representative. The poll books should show that David L. Rockwell received one hundred and thirty-two votes for representative, as there were no votes polled for D. L. Rockwell at said election.

In this place the contestor proposes and insists that the tickets or ballots and poll books be attached to and made a part of this deposition, and the same is done, with the endorsement of the letter B thereon.

GILES HODGES.

Also, at the same time and place, John Perkins, of lawful age, being first duly sworn, deposes as follows:

I was one of the judges of election in Franklin township, Portage county, Ohio, on the 10th day of October, 1848, and officiated as such that day. I was the judge that strung the tickets after they were read and counted. The tickets, after being counted and strung, were put into the box and deposited with Mr. Harvey C. Newberry, the township clerk, and one of the clerks of said election, in whose possession the tickets and box have remained up to this time. There were two hundred and sixty-one votes polled for representative in the State Legislature, of which number David L. Rockwell received one hundred and thirty-two, and George Sheldon one hundred and twenty-nine.

The poll book here present, marked B, shows that D. L. Rockwell received one hundred and thirty-two votes for representative, which is erroneous. The poll books should show that David L. Rockwell received one hundred and thirty-two votes for representative in the Legislature of Ohio, as no votes were polled for D. L. Rockwell at said election.

JOHN PERKINS.

Also, at the same time and place, Robert Clark, 2d, of lawful age, being first duly sworn, deposes as follows:

I was one of the judges of election in Franklin township, Portage county, Ohio, on the 10th day of October, 1848, and officiated as such that day. I was the judge that took the votes out of the box, opened them and handed the same to Giles Hodges to read, who was also one of the judges of said election. The tickets, after being counted and strung, were put into the box and deposited with Mr. Harvey C. Newberry, the township clerk and one of the clerks of said election, in whose possession the tickets and box have remained up to this time.

There were two hundred and sixty-one votes polled for representative, of which David L. Rockwell received one hundred and thirty-two, and George Sheldon one hundred and twenty-nine.

The poll book here present, marked B, shows that D. L. Rockwell received one hundred and thirty-two votes, which is a mistake. The poll books should show that David L. Rockwell received one hundred and thirty-two votes for representative in the State Legislature of Ohio, as there were no votes polled for D. L. Rockwell at said election.

ROBERT CLARK 2d.

Also, Harvey C. Newberry, at the same time and place, of lawful age, first being duly sworn, deposes as follows:

I am township clerk of the town of Franklin and was one of the clerks of election in Franklin township, Portage county, Ohio, held on the 10th day of October, 1848, and officiated as such on that day. I assisted in making out the poll books, and tally list. After the votes or tickets were read and counted, I put the tickets into the box and have had them in my possession up to the present time. The tickets upon the string here present are the same that were deposited in the box at said election.

There were two hundred and sixty-one votes polled for representative in the Legislature of Ohio, of which number David L. Rockwell received one hundred and thirty-two votes and George Sheldon received one hundred and twenty-nine votes. The poll book here present, marked B, shows that D. L. Rockwell received one hundred and thirty-two votes for representative, which is erroneous. The poll books should show that David L. Rockwell received one hundred and thirty-two votes for representative in the State Legislature of Ohio, as no votes were polled for D. L. Rockwell at said election.

HARVEY C. NEWBERRY.

Also, at the same time and place, Jonathan P. Carver, of lawful age, being first duly sworn, deposes as follows:

I was one of the clerks of the election in Franklin township, Portage county, Ohio, held on the 10th day of October, 1848, and officiated as such on that day. After the tickets or ballots had been read and counted, they were put into the box, and delivered to Mr. H. C. Newberry, the township clerk, in whose possession they have remained up to this time. There were two hundred and sixty-one votes polled for representative to the State Legislature, of which number David L. Rockwell received one hundred and thirty-two and George Sheldon, one hundred and twenty nine.

The poll book here present, marked B, shows that D. L. Rockwell received one hundred and thirty-two votes for representative, which is erroneous. The poll books should show that David L. Rockwell received one hundred and thirty two votes for representative in the State Legislature of Ohio, as no votes were polled for D. L. Rockwell at said election.

JONATHAN P. CARVER.

To the Speaker of the House of Representatives of the State of Ohio:

We, Henry L. Tilden and Israel Forker, two justices of the peace, as aforesaid, in and for the township of Ravenna, Portage county, Ohio, do hereby certify that the foregoing named witnesses, Willis Strickland, Philander Robbins, Edmund Yale, Theron Wales, Milton J. Snow, Giles Hodges, John Perkins, Robert Clark, 2d, Harvey C. Newberry and Jonathan P. Carver, were by us first duly sworn to testify the truth, the whole truth and nothing but the truth; and that the foregoing depositions by them respectively subscribed, were reduced to writing by one of us, in the presence of Darius Lyman Esq., counsel for the contestor, and Samuel Strawder Esq., counsel for the contestee, and were taken on the first day of the times and at the place specified in the enclosed notice, and on behalf of the contestor.

In testimony whereof, we have hereunto set our hands and seals this 31st day of October, A. D. 1848.

H. L. TILDEN, J. P. [Seal.]
ISRAEL FORKER, J. P. [Seal.]

The State of Ohio, Portage county, ss.

I, Horace Y. Beebe, clerk of the court of common pleas, within and for the county of Portage, and State of Ohio, do hereby certify that Henry L. Tilden and Israel Forker, Esquires, before whom the foregoing and annexed depositions were taken, were at the time of taking the same, justices of the peace in and for said county, duly commissioned and sworn, and to all whose official acts as such, full faith and credit are due, and that the foregoing signatures purporting to be theirs are genuine as I believe.

In witness whereof, I have hereunto subscribed my name and affixed the seal of said court at Ravenna, this third day of November, A. D. 1848.

HORACE Y. BEEBE, *Clerk.*

REPORT

FROM THE

COMMITTEE ON PRIVILEGES AND ELECTIONS.

IN HOUSE, JAN. 25, 1849.

A majority of the committee recommend for the consideration and action of this House, the following resolution :

Resolved, That George E. Pugh and Alexander N. Pierce, are constitutionally elected to the office of Representatives in this General Assembly, from the county of Hamilton, and that they therefore be now permitted to take their seats.

NORTON S. TOWNSHEND,
B. F. LEITER,
HENRY ROEDTER.

MINORITY REPORT

OF THE

COMMITTEE ON PRIVILEGES AND ELECTIONS IN THE HAMILTON COUNTY CONTEST.

IN HOUSE—JAN. 25, 1849.

The undersigned, a minority of the committee on Privileges and Elections, have examined the certificates of election of Oliver M. Spencer and George W. Runyan, claiming seats as members of the General Assembly, from the first district of Hamilton county, and also the certificates of Geo. E. Pugh and Alexander N. Pierce, claiming seats in this House, as Representatives from the county of Hamilton, and dissent from the opinions expressed by the majority of said committee, and submit the following as their reasons for such difference of opinion.

Your committee have examined the certificates or credentials of election of Oliver M. Spencer and George W. Runyan, which are herewith made a part of this report, and find that in the first district of the county of Hamilton, that—

Oliver M. Spencer received.....	4534 votes.
George W. Runyan “	4461 “
George E. Pugh “	3175 “
Alexander N. Pierce “	3160 “

That Oliver M. Spencer and George W. Runyan, having received a majority of all the legal votes cast in the first district of said county, were by the judges of said election, declared duly elected Representatives to the State Legislature, from the first district of Hamilton county.

Your committee also report that the certificates of said Spencer and Runyan contain the legal and proper evidence of their election as above declared, and all the facts which the law requires as necessary to entitle them to seats as members of the General Assembly.

Said certificates of election are copies of the abstract of votes on file in the clerk's office of the county of Hamilton, containing the official seal of said clerk.

Your committee have also examined the certificates of George E. Pugh and Alexander N. Pierce, copies of which are herewith appended, marked A and B.

The 2d section of the constitution of the State, requires that every four years the Legislature shall fix the number of Representatives and apportion the same among the several counties, &c., &c., which number of Representatives shall never be less than thirty-six nor exceed seventy-two.

In pursuance of this provision of the constitution, the apportionment law of 1843-4 having expired by constitutional limitation, the Legislature of 1847-8, passed a law fixing the number of Representatives at seventy-two, and apportioning them among the several counties of the State.

"To the county of Hamilton was assigned two Senators and five Representatives, to be elected as follows: So much of said county of Hamilton as is comprised within the limits, as now constituted, of the 1st, 2d, 3d, 4th, 5th, 6th, 7th and 8th wards of the city of Cincinnati, shall compose the first district, and shall be entitled to one Senator and two Representatives. * * * So much of said county of Hamilton as is not included in the first district, shall compose the second district, and shall be entitled to one Senator and three Representatives." The above law plainly divides Hamilton county into two separate and distinct election districts; the first district being entitled to two Representatives, and the second district to three Representatives. The election must therefore be held for the election of two Representatives in the first district, and for three in the second district, for the reason that the law has so declared. Two Representatives must be elected by the electors residing within the limits of the first district, and three Representatives by the electors residing within the limits of the second district.

The elector, by the terms of the law, is forbid to cast his vote for Representatives, except for two, if he resides in the first district, and for but three if he resides in the second district. If he does cast his ballot for more Representatives than by the terms of the law his district is entitled to, his ballot is necessarily rejected, because the judges of the election are unable to determine for whom the vote should be counted.

The law requires the election to be held in a place from which the people are entitled under the constitution to elect a Representative.—The State of Ohio at large is entitled to seventy-two representatives—but the State of Ohio is not entitled to elect by general ticket the seventy-two. The people of the county of Belmont cannot select and vote for Representatives in the county of Franklin, for the plain reason, the law does not authorize it.

An election for members of the General Assembly could not be held, except under and by virtue of an apportionment law, to know how many Representatives any particular locality is entitled to choose,

we can refer nowhere else than to the apportionment law. The law is not only binding as to the number, but also in the *manner* of election.

We are not at liberty to adopt the law as to number, and reject it as to the mode of electing them. If the law says that a particular locality, describing it, is entitled to two Representatives, the electors residing within the limits of such locality, and none others, are entitled to vote for said Representatives.

A certificate of election, to entitle a member to his seat, must contain evidence to show :

- 1st. The identity of the person elected.
- 2d. The office to which he is elected.
- 3d. That an election has been held, and the individual elected from a district known and described by the law.

Do the certificates of George E. Pugh and Alexander N. Pierce contain these indispensable requisites?

Their certificates show that at a general election held in and for the county of Hamilton, they were elected representatives, &c. The law recognizes, as before remarked, no such election district as the county of Hamilton. It follows, of course, that no election can be held in and for said county, as such, for representatives, the law requiring it to be held in the first and second districts of said county. The certificates are defective for another reason, that while it is declared that said Pugh and Pierce are elected to the office of representative, it does not show that it is from a district known and described in said law. The limits of the county of Hamilton contain two separate and distinct election districts; instead of the certificates showing that they were elected from the first or second districts, they show that it is from a territory which covers both districts. Suppose the counties of Hamilton and Butler constituted an election district, and a member presented a certificate of election from the county of Hamilton alone, would the certificate entitle him to a seat? Certainly not, for the reason the county is not of itself entitled to a representative.

True, the county of Hamilton is entitled to five representatives; so is the State of Ohio entitled to seventy-two. The county of Hamilton can no more elect five representatives, as a county, than the State can elect seventy-two by general ticket.

The 2d section of the apportionment law, requires that "the poll books of votes given for senators and representatives in the first district of Hamilton county, shall be returned to the clerk of the court of common pleas of said county, and be opened, counted and certified as one district, in the same manner that the poll books of an entire county are now by law required to be opened, counted and certified for members of the General Assembly; and the poll books of votes given for senators and representatives in the second district of Hamilton county, shall also be returned to the clerk of said court, and be opened, counted and certified in the manner aforesaid."

This law requires the poll books of election to be certified up to the

clerk of the court, from each district separately, and not from the county of Hamilton as a county.

The act of 18th February, 1831, sec. 23, requires the clerk of the court, on the sixth day after the election, (or sooner, as the case may be,) taking to his assistance two justices of the peace, to proceed to open the several returns which shall have been made to his office, and to make abstracts of the votes in the following manner :

In sec. 24, same act, it is required, "that in making the abstracts of votes as aforesaid, the justices and clerks shall not decide on the validity of the returns aforesaid, but shall be governed by the number of votes stated in the poll books."

What poll books do they proceed to open ? The poll books of the first, and the poll books of the second district. They are separate and distinct poll books, made so by the law. They must be opened separately, counted separately, and certified separately.

It would be a gross absurdity to require the judges of election to keep separate poll books for the first and second districts, if the votes given in said districts were not to be counted and certified separately. The clerk and two justices of the peace open the poll books and count the votes, to ascertain who has been elected to this office or that office.

They take up, if you please, the poll books from the first district, which is by law entitled to elect two representatives ; it is their sworn duty to declare, according to the 40th section of the law aforesaid, the persons having the highest number of votes, for the office for which he was a candidate, duly elected. They make this declaration from the face of the poll books, from the first district or the second district, as the case may be. They cannot look at the poll books of the second district to ascertain who is elected in the first district, or *vice versa*. Neither can they, without violating their oaths, and the plainest duty and letter of the law, add the number of votes given in both districts together, and then declare, from the aggregate vote, an individual elected. They must declare the two persons having the highest number of votes in the first district duly elected representatives for said district ; and in the same manner in the second district.

The 41st section of the act before cited, says : "that the clerk shall make out, for the representative having the highest number of votes, &c., a certificate of his election, and shall deliver the same to the person entitled thereto, upon demand."

The clerk must, therefore, give the certificate of election to the person that has been *declared* elected.

The judges of election can only declare, in the case before us, the person elected who has received the highest number of votes in the 1st district and 2d district, separately. The certificate of the clerk must conform to this declaration of the election by the board of canvassers ; if it does not, the certificate is of no effect.

"In the case of *Wammaek v. Halloway*, 2 Ala. 31, Court say when an office is elective, it is the election which confers the right, and the commission is only evidence of the right. A commission, therefore, to one not elected, confers no right nor authority."

We find, upon examination, that in the Senate journal of 1808-9, page 8, that Mr. Bigger, from the committee on Privileges and Elections, to which was referred the certificates of Senators, after reporting upon the certificates against which it seems no objections were urged, say :

"Your committee further report that the certificate of Jacob Burton represents that gentleman only elected from the county of Fairfield, while the act fixing the ratio of representation throughout the State, connects together the counties of Fairfield, Licking and Knox in one senatorial district ;—and that the certificate of Mr. Jacob Smith, Senator from the county of Greene, is somewhat informal, the clerk having neglected to subscribe his name at the foot of the instrument."

On page 9 of the same journal, it seems that the Senate resolved itself into a committee of the whole, to consider of the above report—and that at a subsequent time, as appears on page 29, the question was submitted to the Senate, upon agreeing to the above report of the committee, which was determined in the affirmative.

Certificates of election from the Secretary of State had been read to the Senate, showing, that in *fact*, from the abstract of votes on file in his office, the above named Senators, Burton and Smith, were duly elected, and on motion, the Senate adopted the following resolution :

"*Resolved*, That from the certificates of the Secretary of State, it appears that Jacob Burton is duly elected Senator from the counties of Fairfield, Licking and Knox ; and that Jacob Smith is duly elected Senator from the county of Greene, to the General Assembly of this State."

The decision of the Senate in the above cited cases, clearly sustains the principle for which we contend. Jacob Burton did not hold his seat in the General Assembly upon the strength of his certificate, because it did not show him elected from any district known to the law. The evidence of his election was furnished by the Secretary of State, and upon *such evidence*, and *none other*, was he admitted to his seat.

Your committee find, from an examination of the certificates, that those of Messrs. Spencer and Runyan are such as conform to the law; according to the manner it has been stated, that they are legally elected and legally certificated members, entitled to their seats as representatives from the first district of Hamilton county.

The certificates of Messrs. Pugh and Pierce are defective, and show them not entitled to seats as members of this General Assembly, for the reasons before given. Instead of being in conformity to law, they are in violation of law.

The custom and usage since the organization of the State government, has been uniform in sustaining the principle for which we contend. It is the first instance of the kind, where a county clerk has violated his official duty, and given a certificate of election in fraud of the law. For the honor of the office may it be the last !

It is said that that portion of the law dividing the county of Hamilton into two election districts is unconstitutional. We approach this branch of the subject with a consciousness of our inability to discuss

it; and especially when the light of great minds in our State has already been shed upon it, it looks somewhat like presumption to intrude any further opinions. Indeed, we might be content to refer the members of the House alone to the very able opinion of the Attorney General, Mr. Stanberry, communicated to the last session of the General Assembly, on the passage of a resolution offered by Mr. Olds, of the Senate.

Your committee, in offering their views upon the subject, prefer to answer the following questions, which we think involves the whole controversy :

1st. Is that part of the apportionment act of 1848, which divides Hamilton county into two districts, for the election of Representatives to the State Legislature, constitutional and valid ?

2d. Has every voter of Hamilton county a right, guarantied by the constitution, to vote for the whole number of representatives apportioned to that county ?

The 2d section of the 1st article of the Constitution of Ohio authorizes and requires the Legislature to apportion the representatives "among the several counties." By the third section of the same article it is ordained that "representatives shall be chosen, annually, by the citizens of each county respectively." These two clauses are those upon the construction of which the main question depends. The former clause grants all the power that the legislature has, the latter fixes, and defines, and limits, the right of the citizen in voting for representatives. The act in question apportions five representatives to Hamilton county. So far all agree the act is valid. It then divides the county into two districts, and provides that two shall be elected by the voters of the first district, and three by the voters of the second district.

It is objected to this part of the act, that the voters in Hamilton county have each and all a right to vote for five representatives, the whole number apportioned to the county—and this is claimed because the constitution says that "representatives shall be chosen by the citizens of each county respectively." This clause does literally import that the representative or representatives apportioned to a county shall be voted for by the citizens of that county, and not by the citizens of any other county. It does not, however, expressly import that all the voters of a county shall be allowed to vote for all the representatives apportioned to that county. None but the citizens of the county can elect them, but if only a part of the citizens or voters of the county is allowed to vote for a representative, and he is chosen by that part of the voters or citizens, he is chosen by the voters or citizens of the county.

It is worthy of remark here, that though by adhering literally to the two clauses of the constitution, which we have before cited, and another clause which requires the representative to reside in the county where he is chosen, no one representative can be voted for by the citizens of different counties. And no one can be elected by the citizens of a county in which he does not reside—yet from the fact of our State

being divided into a greater number of counties than we have representatives, we have been compelled to depart from this literal construction.

In very many instances, for many years, counties have been united to form a representative election district. This clearly is not within the strict letter of the constitution. Representatives shall be apportioned among the several counties, and they shall reside in the counties where they are chosen and shall be chosen by the citizens of each county respectively. And yet all agree that two counties may be put together, for the election of a representative—that it is enough if the representative reside in one of said counties—and he may be elected by the citizens of two counties.

Our Legislature has regarded it as a fundamental constitutional principle that every voter in the State should have an opportunity to vote for at least one representative and one senator; that all should be represented in both branches of the General Assembly. To secure this, it became necessary to depart from the letter of the constitution, and to put different counties together in one district, for the election of representatives.

To return to the clauses in the constitution which grant the power to the Legislature to apportion representatives, and fix and limit the rights of voters in the election of representatives—when representatives are apportioned to the several counties, the constitution having appointed the day for the election, and left the place and manner of election to be prescribed by the Legislature, it follows that where more than one representative is apportioned to a county the Legislature may divide the county into different representative election districts, unless by doing so some right guaranteed by the constitution is violated or abridged. The right of each and every voter for at least one representative is not interfered with.

And the only question remaining is, whether each voter has a right to vote for as many representatives as are apportioned to his county?

If this right is guaranteed by the constitution, then is that part of the apportionment act of 1848 in question unconstitutional. But granting that this is even so, what power shall pass upon the unconstitutionality of that law? Have the Legislature a right to decide this question? Clearly not. They can decide upon the constitutionality of no law. That belongs exclusively to the judicial department of the government. The province of the Legislature is to pass, amend or repeal laws. Its powers are purely legislative and not judicial. It is one of the beauties and virtues of our republican system of government—the separation of the executive, judiciary and legislative departments.

The perpetuity and harmony of our free institutions depend upon each department confining itself exclusively within the limits prescribed to it in the constitution. A departure from this rule would lead, not only to endless confusion, but in a subversion of our rights and liberties.

The apportionment law of 1848 is the law, and as such must be re-

spected and obeyed. Our duty is submission to all its provisions, until altered or repealed. In the whole history of our State, not a single instance can be found wherein the Legislature ever entertained a proposition involving a decision of the constitutionality of a law. Not many years since a democratic Legislature passed an apportionment law giving to the county of Perry, with a population of a little over three thousand, two representatives, while to the county of Muskingum, with a population of over six thousand, they assigned but one representative. No man doubts but that this was in violation of the constitution. Yet the question was not raised, the Legislature having no power to decide upon it. It seems to us a most monstrous proposition, that under *our* constitution the Legislature has full power to decide upon the constitutionality of laws. To entertain such an opinion is to give to the Legislature the very power which the constitution of the State denies to it. It is, as before said, strictly a judicial question, and no where can be found authority, in this State, for the exercise of this power by the Legislature.

We have, however, asked the question, and we propose to answer it, which to our minds is conclusive. Representatives, according to the letter of the constitution, as we have seen, must be elected by the citizens of the county in which they are chosen. But the constitution no where declares that all the citizens of each county shall be allowed to vote for all the representatives apportioned to such county.

To ascertain what the framers of our constitution meant by the terms or language adopted to express their meaning, we should place ourselves in their situation. We should consider the time when it was written, and the circumstances likely to affect them in the adoption of principles and modes of expression.

Our constitution was adopted in 1802. The constitution of the United States was adopted in 1787, and the government was organized under it in 1789. There can be no doubt of the fact that those who drafted our State constitution carefully consulted and considered the provisions and forms of expression in that of the United States. But to make this fact doubly certain, refer to the two instruments. Compare the preambles—look at the titles of the three first articles, which are letter for letter alike. Compare the two first sections of the two first articles of each, and this fact is made as certain as that the one was adopted prior to the other.

The constitution of Ohio was made in 1802. Before that time it was settled by the practice of the older States under the constitution of the United States, that States entitled to more than one representative, might be divided for the election of representatives to Congress, into districts. With the constitution of the United States before them, containing a clause authorizing Congress to apportion the representatives in Congress "among the several States," according to the rule there prescribed, and knowing that under this grant of power it had been considered constitutional to divide States into districts for the election of representatives in Congress, the convention that framed our State constitution, in the clause authorizing our State Legislature to ap-

portion representatives for the State Legislature adopted, not equivalent words, but the same words which they found in the constitution of the United States upon the same subject. Representatives in Congress shall be apportioned "among the several States." Representatives in the State Legislature shall be apportioned "among the several counties." The adoption of this language in this grant of legislative power, from the constitution of the United States, knowing the construction that had been put upon it, if it was not intended to grant a similar power, with like limitations, was very unfortunate, for it was evidently calculated to lead the mind to such a conclusion. It would in fact be absurd to suppose that in the use of these words the State convention did not intend to grant the same power which was being exercised, by common consent, under a grant in the same identical words, in an instrument of earlier date, and of such importance, as the constitution of the United States.

If we pass from these words, granting the legislative authority to apportion representatives, to the clauses prescribing by whom representatives shall be elected, while we find different words used in our State constitution from those in that of the United States, so far as they concern our question they are of the same import.

Representatives in Congress shall be elected by "the people of the several states." Representatives in our General Assembly shall be elected "by the citizens of each county respectively." The question is, whether every citizen in Hamilton county has a right, secured to him by the constitution, beyond the power of the Legislature, to vote for all the Representatives, apportioned to Hamilton county? The clause of the State constitution imports that the Representatives apportioned to a county, shall be elected by the votes of that county.

The clause of the constitution of the United States imports that the representatives apportioned to a state shall be elected by the voters of that state. These propositions are too plain to require illustration. It follows, then, that if the right is not secured to all the voters of a state to vote for all the representatives in Congress apportioned to such state, then the right is not secured to all the voters of a county to vote for all the state representatives apportioned to such county.

Here we might repeat all that we have before said, as to the practice under the constitution of the United States, as equally applicable to the rules of construction to be resorted to here, as on the other clause.

Our state convention, with the constitution of the United States before them, and well knowing that with clauses requiring that representatives in Congress should be apportioned among the several states, and elected by the voters of the states to which they were apportioned, states had been districted for the election of such representatives, ordained that representatives in our state legislature should be apportioned "among the several counties, and elected by the voters of the counties to which they were apportioned. We submit, did not that state convention mean by these clauses in the constitution of Ohio, what the members of the convention knew was well understood to be

the meaning of similar clauses in the constitution of the United States? It seems to us it would be a reproach to that body to suppose the men composing it meant anything else.

There are other clauses in these constitutions which, perhaps, we ought to note. Our state constitution requires that the representative should reside in the county, not in the part of the county in which he is chosen. So the constitution of the United States requires the representative to reside in the state, not in the part of the state in which he is chosen.

In the constitution of the United States it is provided that the state legislature may prescribe the time, place, and manner of electing representatives to Congress. There is no similar clause in our state constitution. By it the time of electing representatives is fixed; the place and manner are not. For the election of state representatives, the place and manner must be prescribed, as must the time, place, and manner in the election of members of Congress. This requires legislation, and the power to legislate in Ohio is in our General Assembly, in the United States, in Congress.

By the general grant of legislative power to Congress, in the absence of any special provisions giving the power to the state legislature, it would have been the duty of Congress to have prescribed the time, place and manner of electing. So in Ohio, by the general grant of legislative power to the General Assembly, that body is authorized and required to prescribe the place and manner of electing, because the authority is not conferred upon any other body, and is necessary to be exercised, for the purpose of carrying out the objects contemplated in the general grant of power.

The authority to prescribe time, place, and manner, only empowers the legislature to direct how a right shall be exercised and enjoyed, but neither gives or limits, takes away or abridges any right.

The power to prescribe the manner of electing affects not the right of the voter, but it is an authority to direct how the right shall be exercised and enjoyed.

In 1802 a convention elected to frame a constitution for the State of Ohio assembled. To assist them in the work in which they were engaged, that convention referred to the constitution of the United States. The constitution of the United States conferred the legislative authority of the government it created upon Congress, to be composed of a Senate and House of Representatives.

It ordained that the representatives to Congress should be apportioned "among the several states;" that they should reside in the state in which they were chosen, and be chosen by the people, the voters of the state in which they were selected, and that the time, manner, and place of holding elections for representatives should be prescribed by the legislature of the state, reserving to Congress the right to make or alter such state regulations. The government of the United States, under this constitution, had been in existence thirteen years when the convention assembled to frame our state constitution, and seven elections of representatives in Congress had been held. It

was a practice admitted on all hands to be constitutional to divide the states entitled to more than one representative into congressional districts, and that practice has continued to this day.

Our state convention, with this constitution of the United States before them, knowing the construction that had been given to the provisions cited, and the practice under them, conferred the legislative power of the state government upon a general assembly, to be composed of a senate and house of representatives. It ordained that the representatives should be apportioned among the several counties, that they should reside in the county in which they were chosen, and be selected by the citizens, the voters of the county in which they were chosen, on the second Tuesday of October of each year—leaving the places and manner of holding elections to be regulated by the legislature of the state. Can it be that that convention intended to confer any other or different, any more enlarged or restricted powers in regard to apportionment, or in regard to the right of voting for representatives, and the manner of holding elections, than were conferred by the constitution of the United States?

The main matter was, and is, and should be, to afford to every voter a chance to vote for at least one representative, and equality of rights is best secured when each voter has a chance to vote for one, and not more than one representative.

In looking into the proceedings of the convention which met to frame our constitution, the old manuscripts of which are still preserved among the archives of state, as valuable references, to enable us to give that construction to the constitution, which its wise framers intended, we are much strengthened in the position we have assumed.

We have the original manuscript before us, and copy from it the following. "The seventh *article* of the constitution comprehending the general regulations and provisions of the constitution," "was taken up and read the third time in order for its final passage."

"A motion was then made to amend the said article at the secretary's table, by striking out after the word 'contents' in the fifth line of the third section, these words following: 'No new county shall be established by the legislature which is not entitled by its numbers to a representative.'" This proposition was resolved in the affirmative, but was afterwards stricken out. The convention were almost unanimously in favor of the single district system, without reference to county lines and county limits, as their proceedings show, and the practice under it. They used the word county as a convenient phrase of expression, but never intended, or contemplated for a single moment, but what it was clearly within the meaning of the constitution not only to divide a county into districts, for representative purposes, but to join two or more counties for the same purpose. We have already alluded to the similarity of the provisions in the constitution of the United States and that of our own, and think that the position we have taken is already abundantly sustained. But we cannot refrain from referring to the constitution of the State of Tennessee, from which our own constitution is in most respects an exact transcript.

The Constitution of the State of Tennessee was adopted in 1796. It was the first constitution, so to speak, formed and adopted in the then western wilds—the only constitution in the great West which the framers of our own could look to as a model. They took the light of experience as a “lamp to their feet, and a guide to their pathway.” They were guided and controlled in their deliberations by the purest patriotism—with an honest desire to give to the people of Ohio a constitution, the provisions of which has been tested by experience.

Art. I. sec. —, of the constitution of the State of Tennessee reads: “The legislative authority of this State shall be vested in a general assembly, which shall consist of a Senate and House of Representatives, both dependent upon the people.”

The first section of Art. 1, of the constitution of the State of Ohio is a literal copy of the above, except instead of the word “dependent,” the word “elected” is used, both however of the same meaning. In the second section of the constitution of Tennessee, in relation to representation, these words are used: “The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature, and apportioned among the several counties.” In the same section of our own constitution, the language is: “The number of representatives shall, at the several periods of making such enumeration, be fixed by the legislature and apportioned among the several counties.” These provisions are exactly similar. This provision will be found in the fourth section of the constitution of the State of Tennessee.

“When a district shall be composed of two or more counties, they shall be adjoining, and no county shall be divided in forming a district.” Why was it deemed necessary to insert this provision in the constitution, if the argument contended for, that the language “apportioned among the several counties,” was sufficient to limit the legislature in apportioning representatives to a county. They evidently considered that the legislature had power under the second section to *divide* a county, and hence the insertion of the above provision of the fourth section.

When we turn to our own constitution, we find no such restriction. Why was it left out—was it by accident? Such men were not likely to have accidents of so grave a character happen. They had this constitution of the State of Tennessee—studied and pondered well upon it—copied largely from its provisions—yet they did not restrict the legislature from dividing a county *a fortiori*. Why, they intended the legislature should have the power to *divide* a county for representative purposes. It would indeed be a very remarkable conclusion that the framers of our constitution could have, as they did, literally copied some seventy odd sections from the constitution of the State of Tennessee, without considering and deliberating upon the question of the division of counties for representative purposes—the constitution of the State of Tennessee providing against it by express provision, while our own constitution, as before remarked, contains no such restriction. Take into consideration the proposition above cited, from the manu-

script containing the proceedings of the convention—the fact of their having before them, and drafting largely upon the constitution of the State of Tennessee and the United States—can any one doubt but that this very question of the division of counties was maturely and deliberately considered by the convention. We cannot escape the conclusion which, taking all these facts together, is forced upon the mind, that the framers of our constitution expressly meant that the legislature should have the right to exercise the very powers which have been exercised in the passage of the present apportionment law. If they had not so intended, and understood the second section of the constitution to confer this power, they would have so declared. To say that the power has never before been used, is no argument against the existence of the power itself. The far-seeing men who framed that venerable charter of our liberties, no doubt looked into the future, and beheld growing up with almost magic power the great “Queen City,” with its great manufacturing and commercial interests, and believing the true republican doctrine to be to bring the representative directly home to his constituents, *purposely* refrained from restricting the legislature from a division of a county for representative purposes, that this great metropolis of the west should have the right, independent of the conflicting interests of the county, to elect its own representatives to the General Assembly.

Your committee are therefore of opinion that Oliver M. Spencer and George W. Runyan are the legally elected representatives from the first district of Hamilton county.

That the law under which said election was held is constitutional and valid.

We recommend the adoption of the following resolution :

Resolved, That Oliver M. Spencer and George W. Runyan are entitled to seats as representatives elect to this House from the first district of Hamilton county.

MILLER PENNINGTON,
GEORGE HARDESTY.

Your committee also recommend the adoption of the following resolution :

Resolved, That in the consideration of the right to seats in this House, of Messrs. Spencer and Runyan, that they shall be permitted to be heard in favor of their rights, either by themselves or counsel.

MILLER PENNINGTON,
GEORGE HARDESTY.

PAPERS IN THE CONTESTED CASE OF PUGH AND
PIERCE, OF HAMILTON COUNTY.

[A]

The State of Ohio, Hamilton County, ss.

It is hereby certified that at the General Election held within and for the said county and State, on the tenth day of October, 1848, for State and County officers, George E. Pugh had 6462 votes for Representative for the said county of Hamilton, to the General Assembly of the State of Ohio; and that the said George E. Pugh was duly and constitutionally elected a Representative for the county of Hamilton aforesaid, to the General Assembly of the State of Ohio, he having the highest number of votes given for that office at the said election, as appears by the abstract of the votes on file in my office, and as appears by the poll books of said election duly returned and opened at the office of the Clerk of the Court of Common Pleas of said county.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Cincinnati, this eighteenth day October, 1848.

E. C. ROLL,

Clerk, Court of Com. Pleas Hamilton Co., O.

The State of Ohio, Franklin County, to wit.

On Monday, the fourth day of December, in the year eighteen hundred and forty-eight, personally appeared before me, Nathaniel C. Read, one of the Judges of the Supreme Court of the said State, George E. Pugh, the person within named, in the Hall of the House of Representatives of the General Assembly of the said State, in the city of Columbus, and county aforesaid, who, having then and there exhibited to me the within certificate of his election as Representative for the county of Hamilton to the said General Assembly, was then and there by me sworn to support the constitution of the United States and the constitution of the State of Ohio, and to discharge the duties of Representative as aforesaid to the best of his understanding and abilities.— In witness whereof, I have hereunto set my hand, at the city of Columbus, and county aforesaid, this fourth day of January, in the year eighteen hundred and forty-nine.

N. C. READ,

One of the Judges of the Supreme Court of the State of Ohio.

[B]

The State of Ohio, Hamilton County, ss.

It is hereby certified that at the General Election held within and for the said County and State, on the tenth day of October, 1848, for State and County officers, Alexander N. Pierce had 6421 votes for Representative for the said county of Hamilton, to the General Assembly of the State of Ohio; and that the said Alexander N. Pierce was duly and constitutionally elected a Representative for the county of Hamilton aforesaid, to the General Assembly of the State of Ohio, he having the highest number of votes given for that office at the said election, as appears by the abstract of the votes on file in my office, and as appears by the poll books of said election duly returned and opened at the office of the Clerk of the Court of Common Pleas of said county.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Cincinnati, this eighteenth day of October, 1848.

E. C. ROLL,

Clerk Court of Com. Pleas Hamilton Co., O.

The State of Ohio, Franklin County, to wit.

On Monday, the fourth day of December, in the year eighteen hundred and forty-eight, personally appeared before me, Nathaniel C. Read, one of the Judges of the Supreme Court of the said State, Alexander N. Pierce, the person within named, in the Hall of the House of Representatives of the General Assembly of the said State, in the city of Columbus and county aforesaid, who having then and there exhibited to me the within certificate of his election as Representative for the county of Hamilton to the said General Assembly, was then and there by me duly sworn to support the constitution of the United States and the constitution of the State of Ohio, and to discharge the duties of Representative as aforesaid, to the best of his understanding and abilities. In witness whereof I have hereunto set my hand, at the city of Columbus, and county aforesaid, this fourth day of January, in the year eighteen hundred and forty-nine.

N. C. READ,

One of the Judges of the Supreme Court of the State of Ohio.

To the House of Representatives of the State of Ohio.

The undersigned respectfully represents, that at the last General Election for State and County officers, held on the tenth day of October, eighteen hundred and forty-eight, in the first district of Hamilton county, in said State, he was duly elected a member of the House of Representatives of said State, and prays that the evidence of his right may be examined, and that he may be admitted to his seat in your honorable body.

OLIVER M. SPENCER.

COLUMBUS, January 3, 1849.

To the House of Representatives of the State of Ohio.

The undersigned respectfully represents, that at the last General Election for State and County officers, held on the tenth day of October, eighteen hundred and forty-eight, in the first district of Hamilton county, in said State, he was duly elected a member of the House of Representatives of said State, and prays that the evidence of his right may be examined, and that he may be admitted to his seat in your honorable body.

G. W. RUNYAN.

COLUMBUS, January 3, 1849.

ABSTRACT of the votes given at the General Election held within and for the County of Hamilton, and State of Ohio, on the 10th day of October, Anno Domini 1848.

WARDS AND TOWNSHIPS.	GOVERNOR.						
	John B. Weller.	Seabury Ford.	A. Duncan.	T. Brinkerhoff.	T. J. Strait.	D. A. Black.	S. P. Chase.
Cincinnati, 1st Ward,	306	576	1				
2d "	437	986					
3d "	546	492					
4th "	536	494					
5th "	242	479		1			
6th "	474	698					
7th "	450	694					
8th "	736	805					
9th "	701	365					
10th "	883	352					
Millcreek N. precinct,	252	224					1
Do S. precinct,	1095	371					
Springfield township	318	213	1				
Sycamore "	425	193					
Columbia "	314	245			1	1	
Anderson "	341	104					
Green "	310	158					
Colerain "	420	77		2			
Crosby "	232	102					
White Water "	174	75					
Symes "	137	68					
Delhi "	155	73					
Fulton "	242	263					
Storrs "	90	87					
Miami "	114	113					
	9930	8307	2	3	1	1	1

ABSTRACT—Continued.

WARDS AND TOWNSHIPS.	SENATOR—SECOND DISTRICT.						
	John H. Dubbs.	John Burgoyne.	Oliver M. Spencer.	E. T. Turpin	M. S. Wade	Wellington Friend.	H. Roedter.
Cincinnati, 1st Ward			1				
2d "							
3d "							
4th "	524	10	1				1
5th "							
6th "							
7th "							
8th "							
9th "	665	370					
10th "	†866	†343					
Millcreek North precinct	224	240	1	1			
Do South do	†1067	†375					
Springfield township	302	†222					
Sycamore "	401	†204				1	
Columbia "	317	†239					
Anderson "	336	†109	1	1			
Green "	311	183	1				
Colerain "	395	†100					
Crosby "	230	†104					
White Water "	176	†73					
Symes "	138	†66	1				
Delhi "	154	†73	1				
Fulton "	239	†250					
Storrs "	91	82					1
Miami "	113	†116					1
	6539	3159	4	4	1	1	2

ABSTRACT—Continued.

WARDS AND TOWNSHIPS.	REPRESENTATIVES—FIRST DISTRICT.					
	George E. Pugh.	Alexander N. Pierce.	Oliver M. Spencer.	George W. Runyan.	S. B. Hamilton.	Alexander Webb.
Cincinnati, 1st Ward	*7	6	578	511	70	69
2d "	*407	403	829	809	165	184
3d "	*506	499	474	467	59	62
4th "	525	521	455	455	51	52
5th "	*229	217	415	405	76	74
6th "	*418	424	583	574	156	167
7th "	*412	406	582	574	159	153
8th "	*671	684	636	612	217	235
9th "	650	644	16	16	5	4
10th "	*					
Millcreek N. precinct	*					
Do S. do	1079	1070	15	17	7	7
Springfield township	*					
Sycamore do	*					
Columbia do	* 1					
Anderson do	332	332				
Green do	*296	296			2	1
Colerain do	*394	392				
Crosby do	*222	221				
White Water do	176	168				
Symes do	137	137			1	1
Delhi do	*					
Fulton do	* 1	1	9	9		
Storrs do			2	2		
Miami do	*					
	6462	6421	4534	4551	968	1009

SECOND DISTRICT.

54	254	116	111	111
53	254	93	88	94
66	173	90	58	32
40	244	119	117	117
37	142	79	80	80
25	122	70	72	70
09	210	34	34	34
69	*69	*43	*40	*43
98	93	94	86	84
65	63	40	41	39
57	*58	*55	*55	*55
67	*67	*5	*7	*5
68	68	1	1	1
63	62	19	19	19
45	240	15	16	16
69	69	15	15	17
93	91	23	24	23
76	2277	911	865	860
<div>John Martin.</div> <div>Henry Miller.</div> <div>Stockton West.</div> <div>Henry Rogers.</div>				

[illegible]

ABSTRACT—Continued.

WARDS AND TOWNSHIPS.	COUNTY COMMISSIONER.						CORONER.			
	Richard K. Cox.	Charles G. Broadwell.	James Hyland.	T. J. Weaver.	A. Haveland.	G. Vanandel.	Henry Lowry.	Lewis Miller.	Samuel W. Bloom.	Daniel Judd.
Cincinnati, 1st Ward.	300	531	12				268	441	130	
2d "	418	828	82				398	748	196	
3d "	505	498	11	2			500	406	98	13
4th "	527	453	23				518	422	73	1
5th "	233	437	20	2	5	1	219	398	85	1
6th "	429	652	39				438	523	174	9
7th "	421	668	28				426	525	165	4
8th "	687	767	38				689	563	242	2
9th "	691	354	3				660	56	334	3
10th "	838	394					837	74	213	
Millcreek tp. N. precinct	242	232	5			2	230	66	179	2
Do S. "	1061	387	13				1064	58	320	12
Springfield township	308	220	4			1	306	4	214	
Sycamore "	420	196	9				415	22	186	1
Columbia "	312	242					299	14	235	4
Anderson "	331	102	1				331	2	111	
Greene "	299	189	2				258	187	40	
Colrain "	393	96	11				392	15	94	
Crosby "	222	106	5				223	5	104	
Whitewater "	169	27	50				170	49	26	
Symes "	141	56	2				137	9	58	
Delhi "	130	53	33			11	135	46	46	
Fulton "	242	237	26	1			226	74	195	4
Storrs "	87	85	3				85	9	73	6
Miami "	62	14	149				42	177	9	
	9468	7822	567	5	5	15	9263	4991	3700	62

TALLY SHEET									
COUNTING VOTES.									
Representatives.									
1st District.									
4	19	6	2	1	1	1	1	1	138
J. K. Edwards.									
Scattering.									
Henry Roedter.									
Henry Rogers.									
S. West.									
John S. Nixon.									
Duncan Turner.									
Abel Shawk.									

contain a Tally Sheet,
 and no Roll Books.
 ROLL, [SEAL.]
 Cas, Hamilton Co., O.
 J. P. [SEAL.]
 TAYLOR, J. P. [SEAL.]

The State of Ohio, Hamilton County, ss.

We, the undersigned, do hereby certify the foregoing to be a correct abstract of all the votes given at the General Election held within and for the County and State aforesaid, on the tenth day of October, A. D. 1848, for State and County officers, as taken from the poll books of said election, this day opened and examined by us in pursuance of the statute of Ohio in such case made and provided; and that John B. Weller had 9930 votes for Governor, Seabury Ford had 8307 votes for Governor, and J. Brinkerhoff had 3 votes, Thomas J. Straight had 1 vote, D. A. Black had 1 vote, S. P. Chase had 1 vote, and Alexander Duncan had 2 votes for Governor.

David T. Disney had 9292 votes for Representative in Congress, Thomas J. Strait had 6297 votes for Representative in Congress, Samuel Lewis had 2158 votes for Representative in Congress, Malancthon S. Wade had 509 votes for Representative in Congress, and Jonathan Morris, William Hamilton, J. Brockhart, David Lee and Alexander Duncan had each one vote for Representative in Congress.

John H. Dubbs had 6539 votes for Senator, in the State Legislature, John Burgoyne had 3159 votes for Senator to the State Legislature, and O. M. Spencer had 4 votes, E. T. Turpin had 3 votes, M. S. Wade and Wellington Friend had each one vote, Henry Roedter and E. L. Armstrong had each one vote for Senator to the State Legislature; and we do declare John H. Dubbs is duly elected Senator, in the State Legislature, for the county of Hamilton and State aforesaid, he having the highest number of votes given for that office at said election.

And we do further certify, that George E. Pugh had 6462 votes for Representative in the State Legislature of Ohio, Alexander N. Pearce had 6421 votes for Representative in the State Legislature of Ohio, Oliver M. Spencer had 4634 votes for Representative in the State Legislature of Ohio, George W. Runyon had 4451 votes for Representative in the State Legislature of Ohio, S. R. Hamilton had 968 votes for Representative in the State Legislature of Ohio, Alexander Webb had 1009 votes for Representative in the State Legislature of Ohio, Henry Roedter had 8100 votes for Representative in the State Legislature of Ohio, Edwin L. Armstrong had 6230 votes for Representative in the State Legislature of Ohio, Alexander Long had 6225 votes for Representative in the State Legislature of Ohio, Stephen S. L'Hommedieu had 2326 votes for Representative in the State Legislature of Ohio, John L. Nixon had 2176 votes for Representative in the State Legislature of Ohio, John Martin had 2277 votes for Representative in the State Legislature of Ohio, Henry Miller had 911 votes for Representative in the State Legislature of Ohio, Stockton West had 865 votes for Representative in the State Legislature of Ohio, Henry Rogers had 860 votes for Representative in the State Legislature of Ohio, O. M. Spencer had four votes, Geo. H. Sargent had 3 votes, A. Miller had 3 votes, G. W. Runyon had 4 votes, Abel Shawk had 2 votes, J. R. Edwards had 4 votes for Representative in the second district, Henry Roedter had six votes, Henry Rogers had two votes, S. West had one

vote, J. S. Nixon had 1 vote, Duncan Turner had 1 vote, and Abel Shawk had 38 votes for Representative in the first district. And we do further certify and declare Oliver M. Spencer and George W. Runyon, were duly elected Representatives in the State Legislature of Ohio, for the first district, composed of the 1st, 2d, 3d, 4th, 5th, 6th, 7th and 8th wards of the city of Cincinnati, they having the highest number of votes given in said wards for that office at said election; and that Edwin L. Armstrong, Henry Roedter and Alexander Long were duly elected Representatives for the second district, composed of the ninth and tenth wards and the remaining townships of said county, they having the highest number of votes given in said wards and townships, at said election, for that office.

And we do further certify, that Thomas J. Weaver had 8886 votes for Sheriff of said county, Joseph Cooper had 9242 votes for Sheriff of said county, and that Norman Brownell and E. D. Williams had each one vote, and C. Clark had 12 votes for Sheriff of said county; and we do declare Joseph Cooper duly elected Sheriff of said county of Hamilton, he having the highest number of votes given at said election for that office.

And we do further certify, that William Hunter had 8504 votes for County Auditor of said county, and A. W. Armstrong had 9585 votes for County Auditor of said county, and that J. Shinn, E. J. Henry, H. Miller and J. C. Thorpe had one vote each for County Auditor of said county; and we do declare A. W. Armstrong duly elected County Auditor for said county, he having the highest number of votes given at said election for that office.

And we do further certify, that A. G. W. Carter had 9520 votes for Prosecuting Attorney for said county, that John A. Collins had 8667 votes for Prosecuting Attorney for said county, J. R. Gitchel had 4 votes, B. Storrer had 1 vote, William Hunter had one vote, T. J. Strait had one vote and J. W. Collins had three votes for Prosecuting Attorney of said county; and we do declare A. G. W. Carter duly elected Prosecuting Attorney of said county, he having the highest number of votes given at the said election for that office.

Richard K. Cox had 9468 votes for County Commissioner of said county, Charles G. Broadwell had 7822 votes for County Commissioner of said county, James Hyland had 507 votes for County Commissioner of said county, and T. J. Weaver had 5 votes, S. A. Haveland had 5 votes, and G. Vanosdol had fifteen votes for County Commissioner; and we do declare Richard K. Cox duly elected County Commissioner of said county, he having the highest number of votes given at said election for that office.

And we further certify, that John L. Hosbrook had 11,857 votes for County Surveyor of said county, R. Rickey had one vote for County Surveyor of said county; and we do declare John L. Hosbrook duly elected County Surveyor of said county, he having the highest number of votes given at said election for that office.

And that Henry Lowry had 9263 votes for Coroner of said county, Lewis Miller had 4891 votes for Coroner of said county, Samuel W. Bloom had 3700 votes for Coroner of said county, Daniel Judd had

62 votes for Coroner of said county, and R. Rogers had 1 vote, and A. M. Jones had 4 votes, and John Hilton had 5 votes for Coroner of said county; and we do declare Henry Lowry duly elected Coroner of said county, he having the highest number of votes given for that office.

The whole number of votes given at said election, amount to 18,432, as taken from the original returns, opened and examined by us this sixteenth day of October, anno domini eighteen hundred and forty-eight.

Given under our hands and seals, this sixteenth day of October, in the year last aforesaid, at Cincinnati.

NOTE.—The wards and townships that are marked * the Representatives are not designated as to districts. Those that are not marked, the Representatives are designated.

The wards and townships marked thus † the Senators are not designated as to districts.

E. V. BROOKS, J. P. [SEAL.]
MARK P. TAYLOR, J. P. [SEAL.]

I concur in the above certificate, except that part which declares that Oliver M. Spencer and George W. Runyan were duly elected Representatives from the first district, composed of the 1st, 2d, 3d, 4th, 5th, 6th, 7th and 8th wards of the city of Cincinnati; my judgment and understanding being, and I do declare, that Alexander Long, Henry Roedter, Edwin L. Armstrong, George E. Pugh, and Alexander Pearce, are duly and constitutionally elected Representatives to the General Assembly of the State of Ohio, from the county of Hamilton, they having the highest number of votes polled for said office, as appears on the foregoing abstract, as abstracted from the poll books returned to my office.

In witness whereof I have hereunto set my hand and seal, and the seal of the Court of Common Pleas of Hamilton county, at [SEAL.] Cincinnati, this sixteenth day of October, Anno Domini, eighteen hundred and forty-eight.

E. C. ROLL, [SEAL.]
Clerk, Court of Com. Pleas Hamilton Co., O.

The State of Ohio, Hamilton County, ss.

I, Edward C. Roll, Clerk of the Court of Common Pleas within and for the county of Hamilton, and State aforesaid, do hereby certify, that the foregoing is a true and correct copy of the original abstract of the votes polled for State and County officers at the General Election held in said county on the tenth day of October, A. D. 1848, now on file in my office, and the certificate of the Justices attached, together with the certificate of the Clerk thereto.

In witness whereof I have hereunto set my hand and affixed the seal of said court, at Cincinnati, this twentieth day of October, Anno Domini, eighteen hundred and forty-eight.

E. C. ROLL,
Clerk, C. C. P. H. C., O.

REPORT

OF THE

COMMITTEE ON PRIVILEGES AND ELECTIONS IN THE MEDINA CONTESTED CASE.

IN HOUSE—FEBRUARY 20, 1849.

Your committee has had under consideration the memorial of James A. Bell, of Medina county, contesting the right of James C. Johnson, the sitting member, to represent that county in the House, as well as the testimony adduced in support thereof, and beg leave to submit the following

REPORT.

It appears that both parties were eligible to this House upon the day of election; and that for the contestee there were returned and counted eighteen hundred and thirty-five (1835) votes, and for the contestor eighteen hundred and thirty-two (1832) votes.

The contestor claims, in his memorial, *six* additional votes, one *intended* vote, and impeaches *eight* votes counted and returned for the contestee.

The testimony herewith reported, is voluminous, but the committee will briefly state the result of its examination in each case.

THE CONTESTOR'S CLAIM.

First. That he should have counted for him *three* more votes, returned as scattering in the township of Harrisville. These are two for "J. A. Bell," and one for "James Bell," as appears by the abstract. By the depositions of Jonathan Fitts and Henry Ainsworth, the contestor has proved himself entitled to those three votes, and the committee has accordingly added them to those returned for him.

Second. That he should have *one* more vote, returned as scattering, counted for him, in the township of Litchfield. This vote is for "James Bell," and so appears in the abstract. By the deposition of Henry P. Howd and Leman T. Beckwith, the contestor proves himself entitled to that vote, and the committee has accordingly added it.

Third. That he should have *one* more vote in Medina township counted for him. This is returned for "J. H. Bell," but the contestor claims that it was intended for "J. A. Bell," and returned differently by mistake. The first deposition is that of Joseph Fitch, the township clerk, which proves the existence of such a ballot, but the witness declines annexing the original ballot thereto. This deposition is very short and unsatisfactory, and the non-production of the ballot renders it impossible for the committee to decide whether the claim made be true or false. Subsequently, Seldon B. Welton was produced as a witness, and was about to prove (it seems) that he cast the ballot in question, when the magistrate ruled the testimony inadmissible under the contestor's notice. The deposition was never completed nor signed, and the claim therefore is not established. But the committee concurs with the magistrates, that the second and sixth points of notice are entirely too vague, and ought not to be considered.

Fourth. That he should have one more vote in York township counted for him. It is quite clear, upon the testimony, that John Huot voted for the contestor, (though his name does not appear upon the poll book,) and the committee so decides.

Fifth. That one vote for the contestor (that of Riley Warner) was unlawfully rejected in Liverpool township. An *intended* vote cannot be counted as an *actual* vote, of course, although the facts may be such as to induce a new election. The committee is of opinion, from the contestee's testimony, that Riley Warner was not a legal voter, but it will be found unnecessary to decide that question.

The contestor then impeaches the votes returned for the contestee:

Sixth. That Johnson had only one hundred and thirty-five (135) votes in Homer township, instead of one hundred and thirty-six (136;) as returned. This, the committee believes, the contestor has utterly failed to establish. On the contrary, *all* the testimony shows that one hundred and thirty-six ballots were cast; for it appears that the name of Anson McLane is upon *one* of the poll books, and that he voted for the contestee. It is also proven that Jacob Albert, senior, voted at that election, (intending to vote for Johnson,) though his name is upon neither poll book, and that "a receipt about the size of a ballot," folded as such, was found in the box. The committee dismiss this charge, and counts for Johnson one hundred and thirty-six votes in that township.

Seventh. That the vote of Sherman Ranson for Johnson, in Spencer township, should be rejected. It is claimed that Ranson was a minor;

but there is no definite proof of his minority, and no proof, except *hearsay*, how he voted. The committee rejects this allegation.

Eighth. That George C. Baker, who voted for Johnson, in Guilford township, was a non-resident. The contestor's proof leaves this fact in considerable doubt. The voter's brother (Nelson H. Baker,) is the only important witness produced against him, and this brother himself stands in a most unenviable position. He voted for the contestor. It seems that the witness, on the 14th of October, 1847, entered a tract of land in Wabash county, Indiana, at the land office, and made oath that he was a *bona fide* resident of that county, and intended, *bona fide*, to reside upon the tract of land so entered. If he swore true in that affidavit, his vote for Bell was illegal; if he swore falsely, as is more probable, he ought not to be believed for an instant. Either alternative proves him worthy to be an inmate of the Penitentiary, and unfit to be a witness. There is, moreover, no *legal* testimony, nothing but *hearsay*, how George C. Baker voted. And the testimony of Joseph Ross, one of the magistrates, and a judge of the election, shows his vote to be clearly legal. The committee dismisses this allegation.

Ninth. That Maverick Badger and Charles Sabin, non-residents, voted for Johnson in Liverpool township. The first objection made to Badger is, that he was a convict in the Penitentiary; but it appears by proof drawn out of the contestor, that he was very unjustly such.—However, there is no *legal* testimony of conviction, and the judgment was reversed, by the Supreme Court, upon writ of error. Nor is there any legal proof, nothing but *hearsay*, how he voted. The witness who testifies to most of Badger's declarations, (Moses Terrill,) is proved to be of bad character. On the other hand, Jason Mathers (produced by the contestee) establishes the legality of Badger's vote beyond reasonable doubt. The testimony offered to prove Charles Sabin's non-residence, proves quite the reverse. The committee considers both these votes legal.

Tenth. That George Dewey, a minor, and David Boger, a non-resident, voted for Johnson, in Wadsworth township. Now, upon the contrary, the proof shows, (after some preamble,) that Dewey was not a minor, and that Boger is a resident.

Eleventh. That Cornelius Higgins, who voted for Johnson, in Medina township, was a non-resident. This is not embraced by the contestor's notice, and there is not a tittle of proof how Higgins voted. It appears, indeed, that he (Higgins) went to Kentucky *temporarily*, to put up a mill there, and there volunteered as a soldier during the late war. He returned, upon the disbanding of the volunteers, to Medina township; and the committee is of opinion that he never lost his residence. The only testimony relative to this allegation, appears upon the cross examination of one of the contestee's witnesses.

The contestor states, in his memorial, that he has given notice of "some of the points or grounds" of contest therein expressed, and does not even pretend that he has confined his proof to the notice.

THE CONTESTEE'S CLAIM.

First. That *one* vote for him, in Granger township, was illegally thrown out of the return. It is proved, by his own deposition, that Elisha Ingraham voted that ballot, and that it was not counted because Ingraham's name was not upon the poll book. The committee counts that vote.

Second. That *one* vote for him in York township was not counted nor returned. This is a whig ticket with the name of Bell stricken out, and "J. C. Johnson" substituted. The initials "J. C." being upon one margin, were interpreted to be "26" by the judges, and "Johnson," being upon the other, was interpreted to be "whig," it seems, by one or all of them, facetiously or corruptly, perhaps both. Theodore Branch swears that he cast the ballot, and intended it for the contestee. The committee therefore so counts it.

Third. That in Harrisville township, *two* votes for him were illegally rejected. One of these was a democratic ticket, with the name of the whig nominee for Sheriff cut out of a whig ticket, and pasted under the word "Sheriff," upon the ballot. The other was a free soil ticket, with Johnson's name for Representative, and the name of "Wm. T. Walling," the democratic nominee for Sheriff, cut out in like manner and pasted upon the ballot. A majority of the judges (see Jonathan Fitts' deposition,) decided these ballots to be fraudulent under the supposed or assumed authority of the ninth section of the act of 1831, "to regulate elections;" which is in these words: "That each elector shall, in full view, deliver to one of the judges of the election, a single ballot, or piece of paper, on which shall be written or printed, the name of the persons voted for, with a pertinent designation of the office which he, or they, may be intended to fill." Swan's Stat., 307. The committee will only say, that the application of this statute to these two ballots is too literal and refined to satisfy the usual and prevalent notions of justice.

Fourth. That the vote of George C. Miller, in Guilford township, was offered for the contestee, and illegally rejected. An *intended* vote, as the committee has already remarked, cannot be counted as an *actual* vote, but this rejection may be fairly set off against the rejection of Riley Warner's vote for the contestor.

Fifth. That Calvin Phillips, a non-resident, voted for the contestor in Westfield township. The voter (Phillips) was himself produced as a witness, and this is the only case of non-residence, thus far, proven by competent testimony. The committee is clearly of the opinion that the vote is illegal, and ought to be rejected.

Sixth. That Richard Ridgway, an alien, voted for the contestor in Liverpool township. It is quite clear, from the testimony, that Ridgway had never been naturalized, and that he voted, but does not appear

(the proof being merely hearsay,) how he voted. This claim is dismissed.

Seventh. That Albert G. Lawrence, a non-resident, voted for the contestor in Liverpool township. The non-residence is pretty clear, and that Lawrence voted, but the rest is matter of inference. The claim is dismissed.

Eighth. That the late Registry Act was not enforced in the town of Medina, and that the votes of that town ought, therefore, to be rejected. The act, however, being utterly unconstitutional, the committee attaches no importance to the fact that it was (as it should have been) disregarded.

There is one matter of contest which deserves, also, special consideration. John Frank testifies that one vote was counted for Johnson, in Guilford township, the ballot whereof had the space under the words "For Representative," cut out, and the name of the contestee written upon the back. The contestor's memorial does not state any objection to this vote, or even *allude* to it. Nor is it embraced by the notice, unless in the general terms of the first point—grounds so general as to mislead any contestee. Accordingly, the sitting member seems not to have been prepared for the objection. Your committee does not mean to be understood as deciding upon the legality, or illegality of the vote, but as deciding that what the contestor has not seen fit to specify, either in his memorial or his notice, must be a frivolous and merely technical objection.

The committee takes occasion to declare that the first, fourth and sixth grounds of contest set forth in the contestor's notice, are general and vague to an inadmissible degree.

Marshalling the votes respectively admitted, it will be found that the candidates stand thus :

<i>James A. Bell.</i>		<i>James C. Johnson.</i>	
By the abstract	1832	By the abstract	1835
Harrisville	3	Granger	1
Litchfield	1	York	1
York	1	Harrisville	2
Total	1837	Total	1839

Rejecting the vote of Calvin Phillips, in Westfield township, and the result will be :

For James C. Johnson	1839 votes.
For James A. Bell	1838 "

Leaving Johnson a plurality of (THREE)..... 3 "

Which the committee declares to be the result, so far as can be now determined, of the election.

It is not essential to argue, at much length, the several cases of alleged non-residence. The committee will only state a few propositions of law, as generally understood, upon that subject :

"In a strict and legal sense, that is properly the domicile of a person were he has his true, fixed, permanent home, and principal establishment, and to which, whenever he is absent, he has the intention of returning." *Story's Conflict of Laws*, sec. 41.

"It would be more correct to say, that that place is properly the domicile of a person in which his habitation is fixed, without any present intention of removing therefrom." *Ib.*, sec. 43.

"If, therefore, a person leave his home for temporary purposes, but with an intention to return to it, this change of place is not, in law, a change of domicile. Thus, if a person go on a voyage to sea, or to a foreign country, for health, or pleasure, or business of a temporary nature, with an intention to return, such transitory residence does not constitute a new domicile, or amount to an abandonment of the old one." *Ib.*, sec. 44.

"An intention to change the domicile may be fully announced, and yet no correspondent change of inhabitancy be actually made. *Domicilium re et facto transfertur, non nuda contestatione.*" *Ib.*, sec. 45.

"*Prima facie*, the place where a person lives is be taken to be his domicile until other facts establish the contrary. Every person of full age, having a right to change his domicile, it follows that if he removes to another place, with an intention to make it his permanent residence, it becomes instantaneously his place of domicile. If a person has actually removed to another place, with an intention of remaining there for an indefinite time, and as a place of present domicile, it becomes his place of domicile, notwithstanding he may entertain a floating intention to return at some future period." *Ib.*, sec. 46.

"Mere intention to acquire a new domicile, without the fact of removal, avails nothing ; neither does the fact of removal without the intention. The more correct principle would seem to be that the original domicile is not gone until a new one has been actually acquired." *Ib.*, sec. 47.

The foregoing propositions embrace, substantially, all the cases which have arisen upon the testimony as presented.

It might have been well, had this case came up for decision at an earlier period, to send the election back to the people. But the voluminous testimony presented, (not to specify its unsatisfactory character,) as well the extreme nicety of some points alleged, together with the unusual number of contested cases, have prevented the committee from a more speedy conclusion. At this late hour we must stand by an exact decision upon the rights of the two parties ; and that decision, the majority of the committee believes, should be, that James C. John-

son, the sitting member, received the highest number of legal votes for representative in the General Assembly from the county of Medina, at the last election, and is entitled to a seat in the House.

The committee ask leave, therefore, to submit the following resolutions :

1. That James A. Bell, who contests the right of James C. Johnson to represent the county of Medina, is not entitled to a seat in this House.

2. That James C. Johnson, the sitting member, received the highest number of legal votes for representative in this General Assembly from the county of Medina, at the last October election, and is entitled to his seat in this House.

N. S. TOWNSHEND,
B. F. LEITER,
G. E. PUGH.

REPORT

OF THE

MINORITY OF THE COMMITTEE ON PRIVILEGES AND ELECTIONS IN THE MEDINA CONTEST.

IN HOUSE—*February 20, 1849.*

The undersigned, a minority of the committee on Privileges and Elections, have examined the testimony and facts in the case of James A. Bell, contestor for the seat now occupied by James C. Johnson, contestee, member returned from the county of Medina, who has a certificate of election, under which he was qualified, on the first Monday of December, as the Representative from said county.

The abstract of votes, as made out and certified by the clerk of the Court of said county, which your committee have examined, show that—

James C. Johnson received.....	1835 votes.
James A. Bell.....	1832 "
James Bell.....	2 "
J. A. Bell.....	2 "
J. H. Bell.....	1 "

The two votes that were given for James Bell, the two votes that were given for J. A. Bell, and the one vote that was given for J. H. Bell, were rejected by the judges of the election, as not entitled to be counted for James A. Bell.

Your committee would state, that the seat of Mr. Johnson is contested on the ground—

First. That illegal votes were given for him and counted by the judges of the election.

Second. That some legal votes that were given for Mr. Bell, were refused to be counted for him.

Third. That certain legal voters offered to vote for Mr. Bell, on the day of the election, whose votes were refused.

Your committee will further state, that Mr. Johnson claims that several illegal votes were given and counted for Mr. Bell, and legal votes that should have been counted for himself rejected.

A great mass of testimony has been taken upon both sides, some of it entirely foreign to the issue, and much of it that is conflicting. We present to the House the conclusions which we have arrived at in the case, after a careful examination of all the evidence before us—

1. The majority for James C. Johnson, as shown by the abstract, is three.

2. The number of votes that should have been counted for Johnson, that were rejected by the judges of the election, is three. One of these three votes was rejected for the reason that the ballot contained the name of "J. O. Johnson;" the other two, upon the ground that the voters had pasted the name of the nominee of one party, for Sheriff, over that of the nominee of the other; and that the ballot consisted of two pieces of paper, and for this reason was rejected. Allowing these votes to Mr. Johnson, which we think the evidence entitles him to, increases his majority to six.

3. The number of votes that were given and counted for Mr. Johnson, that should have been rejected on the ground of illegality, is three.

Two of these votes we reject, for the reason that the testimony clearly shows that the voters, at the time they cast the votes, had no legal residence in the township where they voted. The other was the vote of a minor.

The number of doubtful votes that were given and counted for Mr. Johnson, amount to four.

Your committee have allowed him these votes, for the reason that the testimony is somewhat conflicting and doubtful, and not being in our opinion sufficient to rebut the presumption of law in favor of the legality of the same.

The number of legal votes therefore, adding to and taking from, according to the above statement and abstract, which should be counted for James C. Johnson, is 1336.

The number of legal votes that should have been counted for James A. Bell, that were rejected by the judges of the election, amount to seven. Two of these votes, as shown by the abstract, were given for James Bell, two for J. A. Bell, and one for J. H. Bell; making, in all, five, and all shown by the testimony to have been intended by the voter, for James A. Bell; and that no other person by

the name of Bell, was a candidate before the people for the office of Representative. The voters who voted these tickets testify themselves as to their intentions.

Your committee understand the correct principle in deciding such cases to be, that when the name of the candidate is not written in full, and that if the intention of the voter can be ascertained, either from an inspection of the ballot or the oath of the voter himself, it should, in all cases be counted.

One of the other two votes was rejected for the reason, as stated, that the voter was not a legal resident of the township at the time of the election.

The deposition of this voter is taken, who testifies that on the day of the election he offered to vote a whig ticket, with the name of James A. Bell, for Representative—that he was a legal resident of the township at the time of the election—testifies as to the length of time he had been in the township, and as to his intentions when he came. All of which is corroborated. The testimony not being impeached, and showing as it does that the vote was improperly refused, we have no doubt it should have been counted.

Your committee will state their opinion to be, that when a legal vote is offered at the ballot box and refused, that in case of contest the vote should be counted as against the person whose seat is contested, and not for the purpose of placing the contestor in his seat. But as this does not alter the result, it is immaterial in this case.

The other was a vote given for James A. Bell, and put in the ballot box; and on counting out the votes it was ascertained that there were 172 ballots in the box, and 171 names on the poll book. The voter testifies that he voted for James A. Bell, and that his vote was received by the judges and put into the ballot box; which statement is confirmed by the deposition of the judges themselves.—The clerk of the election testifies that the name of this voter was neglected to be put upon the poll book; and for this reason this ballot was rejected. The evidence clearly proves that it should have been counted.

Your committee find but one doubtful vote that was given for Mr. Bell; and while we allow Mr. Johnson four doubtful votes, we suppose we can, for the same reason given in his case, allow Mr. Bell one.

The number of votes, as shown by the abstract as aforesaid, allowed to James A. Bell, is 1,832; to which number should be added 7; making the whole number of votes given for him, 1,839.

The whole number of votes given for James C. Johnson, as above stated, is 1,835; leaving a majority for James A. Bell of four.

James A. Bell, having received a majority of all the legal votes cast in the county of Medina, at the last October election, for the office of Representative, your committee recommend the adoption of the following resolution:

Resolved, That the seat of James C. Johnson, now occupied by him, be vacated, and that James A. Bell be forthwith admitted to the same, as the legally elected member to the House of Representatives from the county of Medina.

The undersigned will take this occasion to remark, that they have been solicitous, from the time they were elected members of this committee, to procure an early report upon this case, believing that the public interest would be best subserved by a speedy settlement of this as well as all other contested cases.

MILLER PENNINGTON,
GEO. HARDESTY.

SUPPLEMENT

*To the Report of the Committee on Privileges and Elections, in
the Medina Case.*

IN HOUSE—*February 24, 1849.*

The majority of the committee on Privileges and Elections, begs leave to report, by way of supplement, in the Medina case, that it is clearly proven (by testimony of John Barnaby and others,) that in the township of York, the contestee is entitled to *one* more vote than appears upon the abstract, and that the contestor has not, by *one*, as many votes as were returned for him. This fact is demonstrated by no less than six or seven distinct countings of the ballots. The committee, therefore, credits James A. Bell only one hundred and one (101) votes in that township; and gives to James C. Johnson fifty seven (57) votes. This increases the plurality of the sitting member, over the contestor, to *five*, and the committee asks leave so to amend its former report. And the committee will state that this fact was distinctly ascertained before the report of the 20th instant was drawn up, and that the omission was not discovered until the report had been laid upon the table and printed.

All of which is respectfully submitted,

NORTON S. TOWNSHEND,
B. F. LEITER,
G. E. PUGH.

PAPERS IN THE CONTESTED CASE OF JOHNSON AND
BELL, OF MEDINA COUNTY.

The State of Ohio, Medina County, ss.

I, Edward L. Warner, Clerk of the Court of Common Pleas of the County of Medina and State of Ohio, do hereby certify that at the annual October election for State and County officers for the State of Ohio, held in the several election districts for the county of Medina, on Tuesday, the 10th day of October, 1848, James O. Johnson was duly elected Representative to the State Legislature for the county of Medina, as appears by the original abstract of votes given at said election remaining on file in this office.

In testimony whereof I hereunto set my hand and affix the seal of said court, at Medina, this 23d day of October, 1848.

EDWARD L. WARNER, *Clerk.*

NOTICE OF CONTEST.

To James C. Johnson, Esq., of Medina county.

SIR: As you have been duly declared to be elected Representative to the General Assembly of the State of Ohio, for the representative district composed of the county of Medina, by the Clerk of the Court of Common Pleas for said county, and Samuel Humphreville and G. V. Willard, two Justices of the Peace, assisting said Clerk in making an abstract of the votes given in said county for said office, on the 10th October, 1848, under and by virtue of the election held on said 10th October, 1848, in said county, and hold your certificate of election as Representative as aforesaid, from said Clerk, you are therefore hereby notified, that I having been a candidate at said election for Representative to the House of Representatives in the General Assembly of the State of Ohio, and then and now being an elector in said county of Medina, will contest the validity of your election as such Representative, and your right to a seat in the House of Representatives of the State of Ohio, upon the following grounds:

First. Upon the ground that the judges of the election, held on said 10th Oct., 1848, in the township of Guilford, in said county of Medina, erroneously returned ten votes more for you for Representative as aforesaid, than you actually received at said election in said township, which ten votes, if they had not been returned erroneously for you as aforesaid, would have given me a majority of the votes given in said county for Representative as aforesaid at said election.

Second. Upon the ground that the judges of the said election, on the 10th Oct., 1848, in the township of Harrisville, in said county of Medina, returned two votes for J. A. Bell and one vote for James Bell. That the Judges of said election in the township of Litchfield, in said county of Medina, returned one vote as given for James Bell and that the Judges of the said election in the township of Medina, in the said county of Medina, returned one vote as given for James H. Bell.— That there was one vote given for J. A. Bell, in the town of Medina; all of which votes were given and intended to be given for me, as Representative as aforesaid, and were not counted for me by the said Clerk of said Court of Common Pleas, and said Justices of the Peace assisting him in making the abstract of the votes given for Representative as aforesaid in said county, but which if counted for me, as they should be, would give me a majority of the votes cast at said election in said county for Representative as aforesaid.

• *Third.* Upon the ground that the judges of the said election, in the township of Homer, in said county of Medina, erroneously had in their ballot box, and counted and returned to the Clerk of said Court of Common Pleas for said county of Medina, one vote more than there were actual voters at said election, and counted and returned said excess vote for you, and which should by law have been left uncoun-
 ted, and in that event, with the other votes given for me in said county, I should have a majority of the votes given for Representative as aforesaid.

Fourth. Upon the ground that the judges of the election of each of the respective townships in said county of Medina, erroneously refused and rejected ten legal votes in each of said townships respectively, on said day of election, and during the hours that said elections were respectively kept open, which votes had on said day been offered to the judges of said respective townships for me as Representative aforesaid, and at the same time erroneously received and returned for you in each of said townships, ten illegal votes as Representative as aforesaid.

Fifth. Upon the ground that in the township of York, the judges of said election rejected and did not count a vote for me, which remained in the ballot box after counting as many ballots or votes as the clerks of said election had recorded voters at said election and which vote should be counted for me for the reason that the same was given by a legal voter in said township, and by the neglect and mistake his name was not entered on the poll book of voters at said election.

Sixth. Upon the ground that notwithstanding you appear to have a majority of three votes, from said election district, as returned to said Clerk as aforesaid, I have in fact, a majority of the legal votes of said county, given at the election therein, on said 10th of October, 1848, and am entitled to the seat in the House of Representatives of

said State of Ohio, which you claim, and for which you hold or claim a certificate; and for the reason that I have a majority of the legal votes cast at said election for Representative as aforesaid, as well as for the other reasons stated in this notice, I shall claim the seat in said House of Representatives, in opposition to the claim which you set up, by virtue of the said election.

You are further hereby notified, that Barney Prentice and Joseph Ross, two Justices of the Peace, the first named, in and for the township of Montville, the second named, in and for the township of Guilford, in said county of Medina, are the Justices of the Peace who will officiate at the taking of the depositions of the parties to the contest aforesaid; and that they will attend for the purpose of taking the same, at the office of Hills & Kimball, attorneys-at-law, in Medina, in said county of Medina, on Monday, the 6th day of November, A. D. 1848, between the hours of 9 A. M. and 8 P. M. of said day, and again on Wednesday, the 8th day of November, A. D. 1848, at the same place, and from day to day thereafter, between the hours of 9 A. M. and 8 P. M., of said last days respectively, until the close of said testimony. On all which days and between the hours aforesaid, of said days respectively, at the place aforesaid, I will take the depositions of witnesses, to be read on the trial of said contest, in the House of Representatives of the State of Ohio, at which times and place you can attend and cross-examine said witnesses, if you think proper.

Yours, very respectfully, &c.,

JAMES A. BELL,

Candidate and elector as aforesaid, of the county aforesaid.

October 27, 1848.

State of Ohio, Medina County, ss.

This is a copy of the notice which we delivered to James C. Johnson, Esq., on this 27th day of October, A. D. 1848, personally to him, in Guilford township, Medina county, O.

TIMOTHY B. DOUD,
J. S. POWERS.

Sworn to and subscribed, this 9th day of November, A. D. 1848,
by J. S. Powers, before me,

B. PRENTISS, J. P.

To the Honorable, the House of Representatives of the State of Ohio:

The undersigned memorialist respectfully represents, that he now is and has been for twenty-five years past, a resident and citizen of Medina county, Ohio. That at the last State election, held in this State, on the 10th day of October last, he was an elector and a voter in said county of Medina; also that he was a candidate for Representative to the House of Representatives in the Legislature of Ohio, in said county of Medina.

Your memorialist further represents, that at said election in said county, as such candidate, he received, and there was returned officially to the Clerk of the Court of Common Pleas, of said Medina county, at his office for your memorialist, in the aggregate from all the townships in said county, 1832 votes, as appears by the abstract of votes returned to said clerk's office from the several townships of said county.

Your memorialist further represents, that James C. Johnson, Esq., a resident of said Medina county for many years, was also a candidate for Representative to the Ohio Legislature, in said county at said election; and at said election had returned for him officially from the several townships in said county, to the clerk aforesaid, at his office aforesaid, as such candidate, an aggregate of 1835 votes, as appears by the abstract of votes aforesaid in the office of the clerk aforesaid, giving said Johnson, the contestee in this case, a majority of three of the votes officially returned as aforesaid, for your memorialist and said contestee.

Your memorialist further states, that the clerk of the court aforesaid, upon the official return aforesaid, made out and delivered to said contestee, under his seal of office, in due form, a certificate of his election to said House of Representatives, from said county, by virtue of which said contestee has taken his seat in said House of Representatives, and is now receiving and enjoying all the rights, privileges and emoluments of a member of that body.

Your memorialist further represents, that notwithstanding it appears by said official return of votes that said contestee has a majority of three, over the number returned for your memorialist, yet he, (your memorialist,) claims and insists that he in fact has received, and should have had returned for him, a majority of all the legal votes given for your memorialist and for said contestee as candidates aforesaid; and that if all the legal votes actually given in said county for your memorialist and said contestee, had been correctly counted and returned from the several townships in said county, your memorialist would have had, and now actually has, on such count, a decided majority of all the legal votes given in said county at said election for your memorialist and said Johnson, and over any other candidate for the same election.

In support of this allegation, your memorialist states, that he, the said contestor, had officially returned for him by mistake, in Harrisville township, in said county, 45 votes, whereas he should have had 48

votes returned for him from said Harrisville. That in said township of Harrisville, there were two votes for J. A. Bell, and one vote for James Bell. That said three votes were intended for and cast for your memorialist; and yet said three votes were not counted for nor returned for him, as they should have been.

Your memorialist further states that said contestor had officially returned in Litchfield township, in said county, 121 votes, whereas he should have had returned for him 122 votes. That one Leman Beckwith, a lawful voter of said township of Litchfield, cast or put in a vote having on it the name of James Bell, for Representative. That he (said Beckwith) intended to and did vote for said contestor, and yet said vote was not counted for nor returned for said contestor.

Your memorialist further states that one Shelden B. Welton, a lawful voter of Medina township, in said county of Medina, voted a ticket having on it the name of J. A. Bell for representative, intending to and voting for said contestor, and yet the judges of said election, by mistake, returned said vote for J. H. Bell, instead of returning the same for said contestor, as they ought to have done. That in said township of Medina said contestor had officially returned for him 81 votes, whereas he should have had returned for him 82 votes.

Your memorialist further states that in the township of York, in said county of Medina, said contestor had officially returned for him 102 votes, whereas he should have had 103 votes returned for him from that township. That at the time when, and after said votes were counted in said township, by the judges of election aforesaid, they, said judges, ascertained that there was one more vote taken out of the ballot box and counted and strung than there was names of voters registered by the clerks of said election in said township of York; that thereupon said judges took off from the string, the last vote or ballot that was taken out of the ballot box, and destroyed said vote or ballot, and did not count or return the same. That said ballot had on it the name of James A. Bell for representative. That one John Huet, a lawful voter in said township voted at that election in said township, and that the clerks of said election by mistake neglected to enter the name of said John Huet on their register of voters. That said vote so taken off and destroyed was lawfully and properly voted at said election in said township, and ought to have been counted and returned for said contestor.

Your memorialist further states that in the township of Liverpool, one Riley Warner, a legal resident and lawful voter in said township of Liverpool, offered a vote for your memorialist for representative in and for said county of Medina, to the judges of the election in said township of Liverpool, in said county of Medina, on the 10th day of October last, during the hours of said election, which vote then and there the said judges unlawfully refused to receive, notwithstanding said Riley Warner, who offered said vote as aforesaid, was of full age, a native born citizen of the United States, and a legal resident of said township on the day of said election. Whereby your memorialist lost the benefit of said vote.

Your memorialist further states that said contestee had officially returned for him by mistake, in reading, counting or conducting said election in the township of Homer, in said county, 136 votes, whereas in fact he received in said township but 135 votes, and this number only should have been returned and counted for him.

Your memorialist further states that one Sherman Ranson, a minor and not a legal voter in this State, illegally voted at said election in the township of Spencer for said James C. Johnson for representative from said county of Medina.

That one George C. Baker, not a legal resident of Guilford, or any other township in said county of Medina, illegally voted for said James C. Johnson for representative from Medina county, in the township of Guilford, in said county.

That one Maverick Badger and one Marcus Sabin, who were neither of them legal residents or voters in Liverpool township, in said county of Medina, nor in any other township in said county, nevertheless both illegally voted at said election in said Liverpool township, for said James C. Johnson for representative from said county of Medina.

Your memorialist further states that one George Dewey, a minor, and who is not a legal voter in Wadsworth township, nor any other township in this State; also, that one David Boger, who was not a resident or legal voter in said Wadsworth, nor in any other township in said county of Medina, yet they both illegally voted in said Wadsworth, in Medina county, at said election, for said James C. Johnson for representative as aforesaid.

Your memorialist further states that one Cornelius Higgins, who was not a resident nor legal voter in the town of Medina, nor any other town or township in Ohio, yet he, the said Cornelius Higgins illegally voted at said election in the town of Medina, for said James C. Johnson for representative aforesaid.

Your memorialist further represents that on the 27th day of October last, in accordance with the provisions of the laws of this State for contesting elections, he gave notice in writing to said James C. Johnson, Esq., in person, that he should contest his election to said seat in the House of Representatives of Ohio, from said Medina county; and in said notice some of the points or grounds on which he should contest the same, and at the time and place, and in the same paper gave notice to said contestee that on the sixth day of November last your memorialist would proceed to take testimony before Joseph Ross, Esq., and Barney Prentiss, Esq., two justices of the peace in and for said county of Medina, to be read in evidence on the trial of said contest. That your memorialist, the contestor, and said contestee, have been engaged at alternate periods, in taking testimony in relation to said contest, from said sixth of November to the present time. All of which he will in due time present, with the accompanying notice of points of contest, to the House of Representatives, through their Speaker, for their consideration and further action.

From the foregoing state of facts it is very obvious that although Mr. Johnson holds the certificate of election from the clerk aforesaid,

yet your memorialist has the actual majority of legal votes in said county, and is consequently entitled to the seat in your honorable body. Your memorialist asks that the subject involved in this contest may receive the calm and deliberate consideration of the honorable House of Representatives, and be disposed of in such manner as shall do justice to the rights of the contesting parties, as well as to the rights of the people of said county from which the contest proceeds.

All of which is respectfully submitted.

JAMES A. BELL,
Contestor.

Medina, on the tenth day of
 August, at the annual elec-
 tion, from the several Poll Books
 and of Common Pleas of

Representative in Congress.	
Joseph M. Root.	Ezra M. Stone.
130	154
121	133
149	49
136	42
163	174
119	86
98	65
151	73
98	129
124	106
114	56
93	205
113	104
125	64
123	87
28	138
65	94
115	65
2065	1824

T. B. Hudson, 1.
 Scattering.

Representatives in
State
Legislature.

	James C. Johnson.	Robert English.	
1885	151	16	James Bell, 2. J. A. Bell, 2. J. H. Bell, 1.
	133	22	
	49		
	42	8	
	188		
	86	7	
	64	15	
	73	21	
	133	15	
	108		
	55	13	
	203	1	
	105	66	
	65	1	
	84	5	
	136	6	
	94	4	
	66	2	

ABSTRACT—Continued.

TOWNSHIPS.	Auditor.				Sheriff.			
	Samuel H. Bradley.	Norman Curtis.	Gideon W. Tyler.	Scattering.	Allen R. Burr.	William T. Welling.	Josiah B. Beckwith.	Scattering.
Wadsworth	137	132	16	S. Bradley, 1.	118	151	16	W. T. Welling, 1. Allen Burr, 3. A. R. Burr, 33.
Sharon	96	132	19		97	133	23	
Granger	149	44	---		141	51	1	
Blackley	128	41	8		127	42	8	
Gaillard	166	171	---		166	170	---	
Montville	117	83	7		118	81	7	
Medina	88	64	14		82	61	16	
Brunswick	132	70	21		127	76	20	
Westfield	84	130	16		84	129	16	
Lafayette	107	107	15		106	106	15	
York	102	47	20		95	55	20	
Liverpool	92	202	1		93	203	1	
Harrisville	44	104	68		67	72	41	
Chatham	123	64	2		124	65	1	
Litchfield	114	87	7		114	87	8	
Homer	23	137	6		27	132	5	
Spencer	61	94	4		61	94	4	
Medina Town	139	43	---		122	57	1	
	1902	1754	224		1869	1755	201	

187	2	3	6	8	2	29	1	18	13	16	20	16	7	8	1	22	16
																	Milo Loomis.
																	S. J. Hayslip.
																	Hayslip.
																	J. Hayslip.

der.

Coroner.

Lewis C. Chatfield.

Robert Carr.

Henry Chapin.

Scattering.

117	153	16
96	133	23
142	50	---
127	41	8
164	172	---
114	87	7
82	66	15
130	74	20
84	128	16
107	108	15
95	56	20
93	203	1
43	104	68
122	67	1
114	87	8
23	136	7
60	94	4
113	65	2
1826	1824	231

Jacob Shutt, 1.

We, the undersigned, hereby certify that upon canvassing the several Poll Books of the general election for State and county officers for the year 1848, in Medina county, that Seabury Ford had nineteen hundred and twenty-six votes for Governor; that John B. Weller had eighteen hundred and thirty-five votes for the same office; and that Salmon P. Chase had twelve votes for the same; that Samuel Chase had one vote for the same office, and that Lord Alfred Davis had one vote for the same office.

That Joseph M. Root had two thousand and sixty-five votes for Representative in Congress; that Ezra M. Stone had eighteen hundred and twenty-four votes for the same office; that T. B. Hudson had one vote for the same office.

That Harrison G. Blake had eighteen hundred and forty-eight votes for State Senator; that Hiram Thompson had eighteen hundred and twenty-three votes for the same office; that Aaron Pardee had one hundred and eighty votes for the same office; that H. Blake had one vote for the same office; that H. G. Blake had seven votes for the same office.

That James A. Bell had eighteen hundred and thirty-two votes for Representative to the State Legislature; that James C. Johnson had eighteen hundred and thirty-five votes for the same office, and was declared duly elected; that Robert English had two hundred and two votes for the same office; that James Bell had two votes for the same office; that J. A. Bell had two votes for the same office; that J. H. Bell had one vote for the same office.

That Samuel H. Bradley had nineteen hundred and two votes for County Auditor, and was declared duly elected; that Norman Curtiss had seventeen hundred and fifty-two votes for the same office; that Gideon W. Tyler had two hundred and twenty-four votes for the same office; and that S. Bradley had one vote for the same office.

That Allen R. Burr had eighteen hundred and sixty-nine votes for Sheriff, and was declared duly elected; that William T. Welling had seventeen hundred and fifty-five votes for the same office; that Josiah B. Beckwith had two hundred and one votes for the same office; that A. T. Burr had one vote for the same office; that W. T. Welling had one vote for the same office; that Allen Burr had three votes for the same office; that A. R. Burr had thirty-three votes for the same office.

That Samuel J. Hayslip had eighteen hundred and sixty-five votes for Recorder, and was declared duly elected; that Silas Judson had seventeen hundred and ninety-six votes for the same office; that Milo Loomis had one hundred and eighty-seven votes for the same office; that S. J. Hayslip had five votes for the same office; that Hayslip had three votes for the same office; that J. Hayslip had one vote for the same office.

That Stephen C. Oviatt had seventeen hundred and eighty-five votes for County Commissioner; that Francis Young had eighteen hundred and thirteen votes for the same office, and was declared duly elected; that Halsey Hurlburt had two hundred and thirty-four votes for the same office.

That Lewis C. Chatfield had eighteen hundred and twenty-six votes for Coroner, and was declared duly elected; that Robert Carr had

eighteen hundred and twenty-four votes for the same office ; and that Henry Chapin had two hundred and thirty-one votes for the same office ; and that Jacob Shutt had one vote for the same office.

In testimony whereof we hereunto set our hands this 12th day of October, 1848.

SAMUEL HUMPHREYVILLE, } *Justices of*
GUSTAVUS V. WILLARD, } *the Peace.*

Attest : E. L. WARNER, *Clerk.*

The State of Ohio, Medina county, ss.

I, Edward L. Warner, clerk of the court of common pleas of the county and State aforesaid, do hereby certify the foregoing to be a true copy of the original abstract of votes given at the election for State and county officers for the year 1848, and now on file in this office.

In testimony whereof, I hereunto set my hand and affix the seal of said court, at Medina, this 11th day of November, A. D. 1848.

Attest :

E. L. WARNER, *Clerk.*

By O. S. CODDING, *Dep't.*

JAMES A. BELL vs. JAMES C. JOHNSON.

Contested election for a seat in the House of Representatives in the State of Ohio, from the representative district composed of the county of Medina, in said State of Ohio.

MEDINA, November 17, 1848.

To JAMES A. BELL, Esq. :

You are hereby notified, that I will take depositions in the above case, at the office of Hills & Kimball, in the town of Medina, in said county of Medina, on the 22d day of November, instant, and from day to day thereafter, (Sundays excepted,) until the said testimony shall be closed upon the part of the contestee ; and between the hours of 9 o'clock A. M. and 9 o'clock P. M., of said days respectively, before Barney Prentiss and Joseph Ross, esquires, two Justices of the Peace in and for said county of Medina, and State of Ohio.

JAMES C. JOHNSON.

The State of Ohio, Medina County, ss.

Personally appeared Francis D. Kimball, before me, a Justice of the Peace in and for said county, who being duly sworn, deposes and says that on the 17th day of November, A. D. 1848, he delivered a true copy of the above notice to James A. Bell, Esq., contestor in this case.

FRANCIS D. KIMBALL.

Sworn to and subscribed before me this 29th day of November, A. D. 1848.

B. PRENTISS, J. P.

Depositions of witnesses taken this twenty-second day of November, A. D. 1848, and on the other days mentioned in said depositions, on the part of James C. Johnson, whose seat in the House of Representatives of Ohio, is contested by James A. Bell, and on the part of said contestee.

Francis J. Wheatley, of lawful age, and being first duly sworn, at the aforesaid date, deposes and says that, I reside in the township of Granger, Medina county, and State of Ohio. I am a legal voter in said township, have resided there about 3½ years; I am township clerk of said township, and acted as one of the clerks of the State election held on the 10th of October last. At that election, on counting the ballots, we found one more than names on the poll book. I think that the ballots were all counted in the tally, but that the last ballot taken out of the box was not reckoned in the returns. Cannot say whether they were all strung before the mistake was found out or not, but my impression is that they were, and afterwards that ballot was tied by itself. That ballot had, I should think, James C. Johnson's name on it for Representative to the State Legislature. I have examined the poll book four times since the election. The first time alone, and three subsequent times in company with one different individual at each time, and found at each examination, that the name of Elisha Ingraham did not appear on said poll book. The paper herewith presented, I believe to be an exact copy from the poll book in my possession, which is hereto attached, and made part of this deposition, and marked "Number 1." There is 198 names appear upon the poll book. The ballot presented is the ballot that was not returned. The Justice's copy is correct, which copy is hereunto attached, and made part of the deposition, and marked "Number 2."

I saw the said Ingraham in the school house, where the election was, on the day of election. He was standing within three or four of the Judges, but I did not see him vote.

Question by contestor. How many names of voters were there on the poll book?

Answer. There were 198, and there were 199 ballots in the ballot box.

FLAVIUS J. WHEATLEY.

[No. 2.] *Copy of Ballot.*

For Congress—JOSEPH M. ROOT.

For Senator—HIRAM THOMPSON.

For Representative—JAMES C. JOHNSON.

Com.—FRANCIS YOUNG.

Auditor—NORMAN CURTIS.

Copy of the ballot referred to by Flavius J. Wheatley, and attached to his deposition, marked "No. 2."

B. PRENTISS, J. P.
JOSEPH ROSS, J. P.

Elisha Ingraham, of lawful age, and being first duly sworn, on the 22d day of November, A. D. 1848, deposes and says that: I reside in Grainger, Medina county, Ohio. I have voted there for 30 years. I consider myself a voter, and think I am. I handed my vote to one of the board, at the State election in October last. Did not see him deposit the ballot in the box, but presume he did. My brother, one of the judges, told me it was put into the ballot box. Could not say whether my name was proclaimed or not. I gave him (my brother) my ballot at the time he was acting as one of the judges, with the intention of voting.

Question by the contestor. Do you know that your ballot was put into the ballot box?

Answer. I do not know that it was. I did not see it put in.

Ques. by same. Do you know that your name was proclaimed to the clerks, when you offered your vote?

Ans. I did not hear it.

Ques. by same. Would one of the judges of an election be likely to recollect all the voters that voted at an election where there are as many voters as there are in the township of Granger?

Ans. I should not think he would be likely to recollect them all.

Ques. by same. What was your brother (one of the judges to whom you handed your ballot) doing at the time you handed him your ballot?

Ans. He was conversing with some one about the sale of the school lands, and appeared considerably engaged.

Ques. by same. Would he not be as likely to lose or drop the ballot whilst thus engaged, as to neglect to proclaim your name, if he had put the ballot into the box?

Ans. I am at a loss about an answer. I should think he would be about as likely to do the one as the other, unless there was some peculiar circumstances about it.

Question by contestee. Have you seen the tickets shown by the clerk here to-day, and if so, have you seen the one you think you voted, on the string?

Ans. There is two votes like the one I handed my brother, one of the board.

Ques. by same. Do you know whether one of the judges did or did not proclaim your name?

Ans. I did not hear either of them.

Question by contestor. In your examination of the ballots shown you by the township clerk, do you recognize the vote that you handed to one of the judges of that election?

Ans. I should not like to say that either of them was the particular vote, for I did not mark it.

ELISHA INGRAHAM.

Jacob Albert, Sen., of lawful age, and being first duly sworn, on the 22d day of November, A. D. 1848, deposes and says that: I reside in the township of Homer, Medina county, Ohio. I have resided there 14 years, and voted every year except last year. I should think that I was a legal voter. I have voted often enough, and my vote never was rejected. I voted on the second Tuesday of October last, it being on the 10th ult. I heard one of the judges proclaim my name at the time I handed my ticket.

Question by contestor. To whom did you hand your vote?

Answer. I did not know. I voted through the window. There was one light of glass out of the window, and I handed my vote through that aperture.

Ques. by same. Can you tell whether the man to whom you handed your vote was a judge of election or not?

Ans. I was not in the room where the election was held. Did not see the judges sworn in, but I handed it to one of the judges, for he sat in the judge's place, and others handed their tickets to the same individual.

Ques. by same. At what time in the day did you vote?

Ans. Soon after the polls were opened, but they commenced late.

Ques. by same. Did the judges inquire of you your name?

Ans. They did, one of them.

Ques. by same. Do you know that the ballot you handed in through the window was deposited in the ballot box?

Ans. I did not see them put it in the ballot box. I could not see, where I stood, whether they put it in or not, but they reached out and took the ballot, and reached over where I supposed the ballot box was, my eyesight not being good, but poor.

Ques. by same. For whom did you vote for Representative?

Ans. I could not exactly remember, but I think it was for Johnson. It was a full ticket.

JACOB ALBERT, SEN.

Robert A. Mahan, of lawful age, and being first duly sworn, on the 22d day of November, A. D. 1848, deposes and says : I reside in the township of Homer, Medina county, Ohio. I am a voter in said township—have resided there some 6 years. I served as one of the clerks at the State election, on the 10th of October last, in said township. There were 165 names recorded on the poll book that I kept. We discovered, on comparing my poll book with Mr. Perkins', the other clerk, that the name of John Hull, was on my poll book, but not on his. His poll book was corrected by mine, and said name was included in the returns, as his poll book was returned to the clerk's office supposing that the two poll books agreed ; but since the returns were made, I have examined the poll book deposited at the clerk's office, and find that the name of Anson McLane is not on that poll book, and is on the poll book that I kept, a copy of which is delivered to the Justices taking the above deposition, and is made part of this deposition, and marked "No. 3." There were 166 ballots in the ballot box, as counted out by the judges, and also a receipt about the size of a ballot. I saw Jacob Albert, Sen., at the polls on the day of election. I did not see him vote, but heard two of the judges say that he voted at said election, on the evening following the election. (The last sentence objected to by contestor.) I have since the day of election, examined both the poll books, and do not find the name of Jacob Albert, Sen., on either of them.

Ques. by contestor. Are you the township clerk of that township?

Ans. No sir.

Ques. by same. Have you had the custody of the poll books since that election ?

Ans. I have not ; they were in the possession of the township clerk.

Ques. by same. How do you know that the copy that you have presented and referred to in your deposition is a true copy of the original poll book kept at that election ?

Ans. The original was written by me, and I have examined it several times since, and have not discovered any alterations, and should know them if there had been any.

Ques. by same. Do you know of your own knowledge that that poll book from which you copied as above, is the poll book kept by you at the aforesaid election ?

Ans. Yes sir.

Ques. by same. Do you know of your own knowledge that the poll book that you examined in the clerk's office is the one kept by Perkins, the other clerk, at the aforesaid election.

Ans. I think it is, for I do not see any difference. I think that my name to the certificate is in my hand-writing.

Ques. by same. On the evening of said election did you and the other clerk compare the poll books, and did you not then and there correct the errors and pronounce them correct?

Ans. We looked them over. He looked mine over and I looked at his. We did pronounce them correct as far as we had discovered.

Ques. by same. Did you not then believe them to be correct?

Ans. We thought them to be correct. We had made our certificates, and I believe were partially signed before we looked them over the last time, and found they did not agree. We corrected the error, as above stated. I supposed then that they were correct.

Ques. by same. Who was with and assisted you in making that examination and correction?

Ans. Mr. Perkins, the other clerk. The township clerk, Joseph Mantz, Elias Garman, Darias Tanner, and Daniel Schnebly, the judges of said election. There were also others in the room, and the above named individuals participated in the examination and correction.

Ques. by same. After that examination and correction, what was done with the poll books?

Ans. The one that I kept was taken by the township clerk that evening; the other was sealed up in my presence and handed to one of the judges.

Ques. By same. Why was it that the judges stated that night after the election that Mr. Albert had voted?

Ans. I think it was because there was more ballots than names on the poll book.

Ques. by same. Why should they mention his name on that account more than any other who voted in that township?

Ans. Because he was there, and they said he had voted, and his name was not on the poll book.

Ques. by same. Was it discovered that night that his name was not on the poll book?

Ans. Yes sir.

Ques. by same. Why then was not the poll book corrected according to the fact, if Mr. Albert had voted and his name was not on the poll book?

Ans. I suppose it was because that we did not know that we had a right after the poll books were certified and signed.

Ques. by same. Was that matter talked over that night, and that the reason then assigned?

Ans. Yes sir, that was talked over, and we did not know that we had a right to insert his name.

Ques. by contestee. With whom have you resided since the October election?

Ans. I have resided with the township clerk until within about nine days.

ROBERT A. MAHAN.

Also, George C. Miller, of lawful age, and being first duly sworn, on the 25th day of November, deposes and says :

I reside in the township of Guilford, Medina county, Ohio. I offered to vote on the 10th of October last, at the State election, and my vote was not received. I offered a democratic ticket. It had the name of James C. Johnson for representative to the State Legislature. I was sworn by the judges at the aforesaid election. There were a number of questions read to me from the statute. Could not state what the questions were or how they were answered, in the exact words, but told them that I last returned to said Guilford on the last day of April or the first day of May, 1848. I had been absent, previous to that, about 18 months. I had been to the State of New York. Previous to my going, my wife was discontented in this State, and her father came out to take her home, with the expectation that after remaining there, a while she would come back and be contented. After she had been there a while, she wrote to me and advised me to come to her father's, in said State of New York, and live there with her, as her father had offered to let us live in the house with him. I accordingly went down there with the intention of staying, if I could make the arrangement to stay there, until I could induce her to come back. I stayed there about one year, and then returned for the purpose of thrashing and disposing of the grain on my farm in said Guilford, and also to dispose of or take what stock I had back with me. A calf that I had was disposed of before I got there, and the balance, being a span of colts, I did take with me to the State of New York. I was at Guilford about 3 weeks, and after my return to New York, at the last mentioned time, I remained there about 18 months, as above mentioned. I returned to Guilford aforesaid, and have resided with my father, and carried on my farm since. I had resided in this State, previous to going to New York, I think, about 8 years. I consider myself a citizen of the United States.

Ques. by contestee's counsel. While at New York, did you intend to make it your permanent residence ?

Ans. I did not, having real estate here and none there.

Ques. by contestor's counsel. How long since you first left to go to New York the first time, as before stated.

Ans. About two years and one-half, up to the time of my return last spring.

Ques. by same. What did you do with your farm and household goods during that time ?

Ans. I rented my farm for a year first, my brother then rented it for me for another year, and was not rented afterwards. I took some household goods and stand and a table with me. I left my chairs at father's, and also a bedstead, with these conditions, that if I should

come back he was to let me have them ; if not, he was to pay me for them.

Ques. by same. While there, in New York, did you enter into any employment ; and if so, for what length of time ?

Ans. I did the next spring after I went there, for that season. I went in with my brother-in-law, who had rented a farm, and worked with him on shares. The next season I took the farm that I and my brother-in-law worked the season before, off his hands, and worked it myself alone. My father-in-law was the owner of the aforesaid farm. He had rented it to my brother-in-law by written agreement. My agreement was made with the brother-in-law verbally, with the concurrence of the owner, provided my wife would be contented to live there. When I took the farm off my brother-in-law's hands, his lease had to run 4 years, 2 years having expired.

Ques. by same. Did you take the lease off your brother-in-law's hands for his unexpired term, on the conditions that your wife would live with you at your father's and behave as she ought ?

Ans. Verbally, I did.

Ques. by same. When you came to Ohio to thrash your grain, &c., did you come for a temporary purpose, with the intention of returning when that business was accomplished ?

Ans. I did.

Ques. by same. Did you vote while in the State of New York ?

Ans. No sir, I did not. I did not offer to vote, and did not go to elections.

Ques. by same. For what reason was your vote rejected in Guilford at the aforesaid election ?

Ans. They thought I had lost my residence. There was some disagreement about it. I understood that two of the judges so decided.

Ques. by same. When you went the first time to New York, did you go there with the intention of remaining for an indefinite time.

Ans. I did not know how long I should stay.

Ques. by same. Was it your intention to make New York a place of present residence ?

Ans. When I left here I did not know what I should do. I went there to find out what I could do.

Ques. by same. Whilst there in New York, did you form the intention of making that a place of present residence for an indefinite period ?

Ans. Yes, as I understand it, I did.

Ques. by contestee's counsel. Was that residence last referred to temporary or otherwise ?

Ans. It was temporary.

Ques. by same. How did you dispose of your verbal agreement with your brother-in-law ?

Ans. I stayed one year. That was as long as the law would hold me to a verbal agreement for land.

Ques. by same. Do you know a citizen of Medina county by the name of James Bell ? if so, where does he reside ?

Ans. I do. He resides in the township of Guilford. I have not seen him for a short time past. He has resided there. I suppose he is the father of James A. Bell, the contestor.

Ques. by contestor's counsel. Was there any other person by the name of Bell, who was a candidate for representative at the election on the 10th of October last, but James A. Bell, the contestor ?

Ans. Not that I know of.

Ques. by same. What is your age, and how long since you were married.

Ans. My age is 28 years last January, and I was married 4 years ago last May.

GEO. C. MILLER.

Also, Calvin Phillips, of lawful age, and being first duly sworn, on the 25th of November, A. D. 1848, deposes and says :

I voted at the State election in October last, in Westfield, Medina county, Ohio. I voted the whig ticket. On the ticket was James A. Bell's name for representative to the State Legislature. One year ago last August, the second day, I left the State and went to the State of New York. I returned to Westfield aforesaid, on the 8th or 9th day of September, A. D. 1848. I was gone 13 months and 4 or 5 days. I went there to visit my brothers, three of them. Had inflammation in my eyes, and rented my farm to one of my sons for three years. When I left I told my folks that I was going to visit my brother—might be gone three months, might not be gone so long, it would depend upon how I felt when I got there. I accordingly went and stayed a while, and finally told one of my brothers I did not know but I would winter with him. He said he would keep me as long as I would stay. Accordingly I did winter with him, and also stayed through the summer. In the spring before I came home, I told my brother if I stayed any longer I must go to work. He told me that I might work or not as I pleased. I did go to work and built him 2 hay barns and 5 sheds, with some assistance. Made no bargain what I was to have, neither was there any thing said about it until I concluded to come home, the fore part of September, as above stated. He then asked how much he should pay me ; I told him I should set no price, he might do as he pleased, I had nothing to say about it. He did give me \$100 that I was owing him, and a note of \$70, given by Seymour Ganyard. He is well off, what might be called wealthy, and I came away satisfied, and I think he was.

Ques. by contestee's counsel. When you commenced work in the spring, how long did you intend to remain there ?

Ans. I did not know. I did not make any calculations about it. I heard from my people often. Did not know but I should stay all summer if they should be well.

Ques. by same. Did you rent your farm with the view of going to New York ?

Ans. No, not such a thought in view when I rented it. Did not know as I should ever see the State of New York.

Ques. by same. While at your brother's, did you not consider it your place of residence for an indefinite period ?

Ans. Not at all.

Ques. by same. In what light did you view it ?

Ans. To start at any time, by day or night, when I was a mind to.

Ques. by same. Had you any other home during that time ?

Ans. Why, there was three brothers there, and either of them was a home, and I had a good home in the State of Ohio to come to when I pleased.

Ques. by same. Did you not break up house-keeping before you left the State of Ohio ?

Ans. No sir.

Ques. by same. You say that you had rented your farm, where was your home in Ohio after that time ?

Ans. In my house. I reserved one-half of my house for myself.

Ques. by same. Who lived in your house while you were absent in New York ?

Ans. My son lived in the house ; also, my wife lived with him when she pleased, and also she went to her either of her 2 sons or son-in-law whenever she pleased.

Ques. By same. Did you vote while you was in the State of New York ?

Ans. No sir, I did not.

Ques. by contestor's counsel. Have you rented your farm for several years past ?

Ans. I have rented it for over 6 years. It is about 29 years since I went on the farm that I now own and rent, and it has always been my home, and will be as long as I live. My family consists of five children settled in the neighborhood, and one in Kentucky.

CALVIN PHILLIPS.

Also, John A. Rettig, of lawful age, and being first duly sworn, on the 25th of November, A. D. 1848, deposes and says :

I am marshal of the town or village of Medina, Medina county, Ohio. I was appointed by the council, and qualified in April last, for the term of one year. I suppose it is an incorporated town, and suppose it is an election district. Elections are held in it. Said election district is composed of a part of Medina and Montville townships. I suppose that the remainder of the townships of Medina and Montville, not included in said incorporation, compose separate election districts. I made no register of the names of electors in said election district at any time during my present term of office as marshal, and no such was made and posted up to my knowledge.

Ques. by contestor's counsel. Why did not you make such register ?

Ans. Because I thought the law requiring it was repealed, and the locofocos always said it was unconstitutional, and I was sworn to support the constitution.

Ques. by contestee's counsel. Have you, previous to the nomination of Gen. Taylor and the advent of free soilism, had any *very great*

confidence in the legal opinion of the locofocos as applied to whig legislation ?

Ans. I had about as much as I had in Van Buren's whigism.

Ques. by same. Have not such registers been made previous to to our State elections, since the passage of the law in question, with this exception ?

Ans. There has, so far as I know.

Ques. by contestor's counsel. You do not know, do you, that no such register of the voters of Medina town was not put up by the trustees or their order, for said October election ?

Ans. I do not know that such list was not posted up previous to said election.

JOHN A. RETTIG.

Also Oscar S. Coddington of lawful age and being first duly sworn on the 25th day of November, A. D. 1848, deposes and says, I was one of the Clerks of the Election held on the 10th of October last in the Town of Medina, Medina County, Ohio, there was not to my knowledge any register of the voters of said Town at said Election used by the Judges.

O. S. CODDING.

Also William F. Shelden of lawful age and being first duly sworn on the 27th day of November A. D. 1848, deposes and says that, I reside in Liverpool, Medina County, Ohio, I am acquainted with Richard Ridgway, his farm adjoins mine, I suppose he is not a citizen of the United States, I believe he is an Englishman. Some time since perhaps one or two years, I had a conversation with him, asked him if he had been naturalized, he told me he had made application, and had paid six shillings towards it, and should not pay any more. I did not see him vote on the 10th of October last, but I was in Ridgway's house conversing with him about it since the State Election. I asked him how he voted, he said a Whig ticket, he also said he did not care which way he voted, for he did it for the liquor, did not state I think who gave him the liquor. I suppose Mr. Bell was candidate for Representative on the Whig ticket.

Said Ridgway did not vote at the Presidential Election. Said he had so much to do that he could not go to Election.

Question by Contestor's Counsel. Do you know that said Ridgway has not been naturalized ?

Ans. He does not pretend that he is, and I am well satisfied that he is not.

Ques. by same. Have you had a conversation with him since on the subject of being naturalized except the one above referred to ?—Not that I know of.

Ques. by same. Then how do you know that he does not pretend that he has been naturalized ?

Ans. He did not go to the Presidential Election, and it has been the common conversation about the neighborhood that he has not been naturalized.

Ques. by same. You do not know then except by hearsay that he was not naturalized previous to the aforesaid Election ?

Ans. I do not know except by hearsay.

Ques. by same. Why did he tell you how he voted at said Election ?

Ans. I asked him.

Ques. by same. Why did you ask him ?

Ans. For the sake of knowing.

Ques. by same. What did you understand him to mean when he said he voted for the Liquor ?

Ans. I understood him to mean that he voted the Whig ticket because he had the offer of liquor if he would so vote.

Ques. by Contestee's Counsel. Have you heard him since the Election express any fears that he would be prosecuted for voting illegally at said Election ?

Ans. I have not.

WM. F. SHELDEN.

Also, Eugene Gilchrist being of lawful age and first duly sworn on the 27th day of November A. D. 1848 deposes and says : that I reside in Liverpool, Medina County, Ohio. I am acquainted with Richard Ridgway who resides in said Liverpool. I suppose he is from England. I cannot tell whether he has been naturalized or not. I heard him say yesterday that he had declared his intentions and that he had lost his papers. He did not say whether he had been naturalized or not.

Ques. by Contestee's Counsel. Did you not understand from the conversation that he had not been naturalized ?

Ans. I did not understand any thing about it. I asked him if he had declared his intentions of becoming naturalized, he told me that "he had" as above stated. I then asked him if he had been naturalized and he did not answer. Something was said about other things.

Ques. by same. When did he say he got his papers ?

Ans. About 4 years ago.

Ques. by same. When did he say he lost them ?

Ans. I did not understand when it was.

Ques. by same. What led to the conversation between you and him in regard to his being naturalized ?

Ans. I cannot tell any further than this. I suppose he had some fears in regard to his voting and probably that was the reason why we were talking about it.

Ques. by same. Did not Ridgway request you to come to the County Seat with him to get his naturalization papers, if so when ?

Ans. He never requested me to come on that business at all.

Ques. by Contestor's Counsel. When you asked Ridgway if he had been naturalized did he or did he not refuse to answer ? or manifest any unwillingness to answer ?

Ans. He did not refuse to answer, neither did he manifest any unwillingness, but at the time I asked the question some one other than Ridgway spoke quite loud on some other subject and the conversation changed.

Ques. by Contestee's Counsel. State all the conversation with him in reference to his voting and being naturalized except what you have before stated ?

Ans. I could not tell all, he said he did not know what in hell they could do with him. He said he did not know how he voted. I am very sure but would not be positive, that he said he found some papers or tickets on the road, could not tell what the next conversation was, but at the same conversation I told him that Jasen Mathews said that he Ridgway voted the Whig ticket. Ridgway replied that he Mathews was a damned liar for no one could tell, it was folded up, could not tell all the conversation. I would not be positive but I think he told me that he got 4 tickets of Tillotson, said he did not know what ticket he did vote, but said he put in some paper or ticket or something, said he did not know what it was.

Ques. by Contestor's Counsel. What else did Mathews say at the time he told you that Ridgway voted the Whig ticket ?

Ans. I think he told me that if Ridgway would come up and own how he voted they would not do any thing with him.

Ques. by same. What kind of a man is Ridgway, ignorant or informed ?

Ans. I should consider him ignorant about some things, do not know whether he can read or not, he says he cannot.

Ques. by same. Did Ridgway tell you that Tillotson gave him tickets ?

Ans. Cannot tell positive but it is my impression that he did.

Ques. by the same. Did he tell you that he did not know how or for whom he voted ?

Ans. He did Sir.

Ques. by same. When was this conversation ?

Ans. It was yesterday, and do not know but at other, times could not be positive.

Ques. by Contestee's Counsel. Was not the fact that a prosecution was talked of, alluded to, and did he not make his statements as to the fact that he did not know how he voted under that fear ?

Ans. There was a prosecution talked of, in the conversation between me and Ridgway and the rest of them. I could not tell whether his statement was influenced through fear or not, presume he did not know how he voted.

Ques. by same. To what party does Tillotson belong ?

Ans. I believe he belongs to the Whigs.

(The 2 last questions and answers were objected to by Contestor.)

Ques. by same. Is not Tillotson the person who is reported to have given him liquor or money to buy liquor with to induce him to vote the Whig ticket ?

Ans. All I know about that is, what Mr. Mathews has said here to day about it.

EUGENE GILCHRIEST.

Also Jason Mathews of lawful age and being first duly sworn on the 27th day of November A.D. 1848, deposes and says that, I reside

in Liverpool, Medina County, Ohio. I was one of the Clerks of Election held on the 10th of October last. I know Richard Ridgway, he voted at that Election and from what I saw of his ballot I judged that he voted the Whig ticket, he has never voted there before to my knowledge, cannot say how often I have acted as Clerk of Elections in that Township, but some 5 or 6, 6 or 7 years I have been Clerk of Elections with the exception of 3 or 4 Township and State Elections. I think that to be the case as near as I recollect. Ridgway I call an Englishman, has lived there 10 or 12 years. I cannot say whether he is naturalized or not, but should think he was not from report. I do not consider Mr. Ridgway an ignorant man by any means and until since the Election did not know but he had a good education, do not know whether he can read or not. I was also present when Riley Warner offered his vote, I challenged him, he was sworn, one of the Judges asked him I believe, if he was a resident of the Township or County and I will not say which. He said he did not know. I think the next question that was asked him that he answered, was how long he had resided in the Township; I believe will not be positive but what it was County instead of Township but it is my impression that he said Township. I think he said he had been in the Township some 3 or 4 days or a few days could not say which, I believe that was his answer, was quite loth to answer questions. He was asked if he came into the County for the purpose of making it his home or for a temporary purpose merely, his answer was, he did not give any direct answer to the question that I could hear; at least, it is my impression however that after waiting a considerable length of time that he said he did not know whether he came for a temporary purpose or not, there was several questions asked him and his answers were not as required by the Statute, but seemed to evade giving direct answers. I believe or at least I understood from him that he had resided in Eaton, Lorain County. Should think he had been absent from Liverpool some 4 or 5 years at least, has not been a resident for that length of time. He has attempted to vote in Liverpool previous to the aforesaid State Election some 2 or 3 times, perhaps more, but his vote has been rejected. I have understood that he owned a farm or bought a farm in Eaton, but cannot say that I understood it from him. I believe he has been in the habit of being at his father's, in Liverpool; at least I have seen him there. Do not know where he has resided during the last summer. I do not know that he was engaged in any business after the time he came there, previous to said October election. I am also acquainted with Maverick Badger; he has been a resident of Liverpool about five years, five or six years perhaps. I think for two or three years he has been in the habit of going down to his father's; says his father lives in Pennsylvania, in the winter season. He has voted for quite a number of years. I was present when his vote was challenged at the aforesaid October election. He stated that he considered himself a citizen of the state of Ohio. Terryll challenged him on the ground that he had been in the Penitentiary. Badger stated that he was coming down the lake on a boat, did not tell when I believe, might however, and a fellow or person, I think he said,

handed him some money to keep for him. He said he did not attempt to pass it; and when he landed at Ashtabula, he stated that he or they were in the street and were taken with a state's warrant. This fellow that gave him the money turned state's evidence, and J. R. Giddings plead his cause. He said he had a trial and I think he said he was found guilty. He said he came out or was taken on a writ of error. I think he has not been absent from Liverpool more than six months at any one time within the time he has been a resident of Liverpool, some four or five, five or six years.

Question by contestee's counsel. Are you acquainted with Moses Terrill?

Ans. I am.

Ques. by same. Are you acquainted with his character for truth and veracity, and is it good or bad?

Ans. I am acquainted with his character for truth and veracity and it is bad.

Ques. by same. From your knowledge of his character would you believe him under oath?

Ans. I should not believe him as soon as I should many men; not as soon as most men; could not say that I would not believe him under any circumstances.

Ques. by same. Are you acquainted with Albert G. Lawrence; did he vote in Liverpool at said election; was he a resident of that township? and state generally all the facts.

Ans. I am acquainted with said Lawrence; he voted at the election aforesaid; I do not consider that he was a resident of said township. Lawrence had left Liverpool, I think, the fore part of September last; I suppose he went at that time to Omsted Falls, I believe, in Cuyahoga county; he told me he was going there before he went; cannot tell what business he went into; he came from there to Liverpool, I think a year ago this fall, and went into the mercantile business. I believe his goods in Liverpool were sold out by a constable at various times during the months of July and August; cannot say but some were sold in September. He came back to Liverpool either the day before election or on the morning of election; he came there occasionally I believe, collecting, before the time last referred to. I think he went away on the day of election, but am not sure; has not resided there since that I know of.

Ques. by same. Do you know what ticket he voted?

Ans. From the appearance of his ticket I should think he voted the whig ticket; I consider that he belongs to the whig party; I had a conversation with him last Saturday, I asked him how he voted and he refused to tell me.

Ques. by same. To what party do you belong, and were your politics known to Lawrence?

Ans. I belong to the democratic party, so called, and my politics I think, were known to Lawrence. I had often declared them.

Ques. by same. Was this contest alluded to previous to your asking him how he voted, or during the conversation?

Ans. It was not alluded to previous to my asking him how he voted, but was alluded to during the conversation. I asked him how he voted, for there was a contest for a seat in the Legislature, in this county. He said he should not tell me.

Ques. by same. Where does he now reside?

Ans. I believe at Onsted Falls.

Ques. by contestor's counsel. In your statement in reference to Ridgway's voting, you say that "from what you saw you judged he voted the whig ticket." What did you see?

Ans. I saw his ticket. It was doubled rather loose. He came perhaps within two or three feet of me. He held it out in his hand, and I saw him hand it to one of the judges of election. The ticket appeared to be too small for a democratic ticket. I had measured or compared the tickets, and found the whig tickets smaller or narrower—the tickets appeared to be about of a length—and I judged the ticket that he handed to one of the judges, to be one of the whig tickets because it was smaller, and he came up to the polls with individuals belonging to the whig party.

Ques. by same. What individuals of the whig party came up to the polls with him?

Ans. Luther T. Lovejoy, I think—am not sure. George Ames and Mason Terrill, I think, came along behind. I think, if I recollect right—would not be certain—it seems to me, there was another, and I think it was Eugene Gilchrist. Would not be positive, but I should think he was one. I do not recollect any more in particular.

Ques. by same. Are you positive that any of the whig party went up to the polls with him?

Ans. Yes, sir. I am positive that individuals belonging to that party came along with him; or individuals who are considered as belonging to that party, or that I do at least.

Ques. by same. But you cannot state positively the name of any individual who did come up to the polls with him, can you?

Ans. I cannot state positively any individual who came up to the polls with him.

Ques. by same. Were there, not whigs in the room all day, going up to the polls with others.

Ans. From the time the polls were opened, or soon after, until they were closed, whigs voted as they came up.

Ques. by same. Is it uncommon for two or three whigs or two or three democrats to follow any person to the polls, whose political views are not known?

Ans. It is not uncommon for whigs or democrats to follow such an one to the polls, or going behind him rather. I consider it quite uncommon for an individual to go to the polls in Liverpool, whose politics is not known.

Ques. by same. Is the fact that a man going to the polls with others, evidence how such man votes?

Ans. The mere fact of his going to the polls with others, is not evidence how he votes.

Ques. by same. Did you see any of the names or printing on Ridgway's ticket?

Ans. I am not sure, but think I saw on one edge of the ticket, a name, or part of a name, printed, but could not read it.

Ques. by same. How many kinds of tickets were voted at that election, in Liverpool?

Ans. There was three—the whig ticket, the free soil ticket, and democratic ticket.

Ques. by same. How did those three kinds compare in reference to size?

Ans. The whig ticket was considerable narrower, and if I recollect, finer paper than the democratic. The free soil ticket, the only one that was voted, was a little shorter and narrower than the whig ticket, which made it smaller every way.

Ques. by same. Might not the democratic ticket have been cut down to the size of the whig ticket, so as not to be readily distinguished?

Ans. I think it might, so that it might not be noticed unless by close observation. There was but one democratic ticket cut down by Jacob Miller, to the size of the whig ticket, and voted by him.

Ques. by same. What are your means of knowing that there was but one such ticket voted?

Ans. When the votes were counted, that ticket was particularly noticed by the judges and the clerks, and in looking over the tickets, that was the only one.

Ques. by same. Have you looked over the tickets since the day of election?

Ans. I have not, since that night.

Ques. by same. Did you look over the tickets that night?

Ans. I, together with the other clerk and judges, looked over the tickets once or twice before we closed the poll book.

Ques. by same. For what purpose were they thus looked over?

Ans. For the purpose of ascertaining that there was no mistake in counting.

Ques. by same. At what time were they thus looked over, before or after they were strung?

Ans. After they were strung.

Ques. by same. Which of you handled them over once or twice, as you above stated?

Ans. I think one of the judges held the string, one of the others counted, and the other three looked on.

Ques. by same. When and by whom was the discovery made, that there was but one such cut ticket?

Ans. In counting. It was first discovered by Ella Wilmot, one of the judges, I think, and then he spoke of it and the others noticed it.

Ques. by same. Who filled up the subpoena for the Liverpool witnesses?

Ans. I inserted the names of William F. Sheldon and Eugene Gilchrist, in that subpoena.

Ques. by same. Why did you not insert the name of Ridgway, and have him subpoenaed also?

Ans. Mr. Johnson did not request me to. Mr. Johnson came to my house and wanted me to tell him who he had better subpoena. I told him what he might prove, as I thought, by Sheldon and Gilchrist.

Ques. by same. Then why did you not advise Mr. Johnson to have Ridgway subpoenaed?

Ans. I think I did advise him to. If I recollect right, I told Johnson that he had better subpoena him.

Ques. by same. Have you not heard, or do you not know, that Ridgway voted for Johnson for Representative?

Ans. I have heard that Ridgway told George Ames, if I recollect right, that he voted the locofoco or democratic ticket. I do not know that he voted for Johnson. (Objected to.)

Ques. by same. How long did you say that Warner said, he had been in Liverpool previous to the State election?

Ans. It is my opinion that I have not stated that he told how long.

Ques. by same. How long did he state that he had been in Liverpool previous to said election?

Ans. It is my impression that he or Mark Warner, his brother, stated that he came into the township the day before, or a few days before.

Ques. by same. Is not Riley Warner, in his form and manner of speech, quite peculiar; and might he not be understood as being evasive, when he is not, and when it is only his peculiarity?

Ans. I do not know that Warner is quite peculiar in his manner of speech. I cannot say whether he may be considered as evasive when he is not so, or not.

Ques. by same. Has he a family?

Ans. I cannot tell whether he has or not. I believe he lost his wife—cannot state how long since.

Ques. by same. Does his parents live in Liverpool?

Ans. I believe they do.

Ques. by same. Has he not been in the habit of going to his fathers and making it a home?

Ans. Not that I know of.

Ques. by same. How far do you live from where his parents reside?

Ans. At a little over 2 miles, not quite 2½ miles.

Ques. by same. Might he not often go to his parents, and make it a temporary home, without your knowing it?

Ans. Yes, sir.

Ques. by same. Do you know that he sold his interest in his farm in Eaton, and removed from there last spring, or at any other time?

Ans. I do not know anything about it.

Ques. by same. Might he not have been engaged by his father and brother, in husking corn, thrashing wheat, getting wood, and other things, without your knowing it.

Ans. Yes, sir.

Ques. by same. How long have you been acquainted with Maverick Badger?

Ans. Some 4, 5, or 6 years. Cannot say how long—quite confident that it has been 4 years.

Ques. by same. What has been his business, since you have been acquainted with him?

Ans. Tying brooms, working out for people, and hunting.

Ques. by same. Where has his wife resided since you have known him?

Ans. I do not know that he has a wife.

Ques. by same. What proportion of the time that you have known him, has he resided in Liverpool?

Ans. I should think about three-fourths of the time.

Ques. by same. Has he not often been down to his father's in Pennsylvania, and does he not call that his home?

Ans. I do not know whether his folks live in Pennsylvania or not. He has often been away, and as he said, was going to his father's. I do not know whether he calls that his home or not.

Ques. by same. Might not Badger have been absent more than six months or a year at one time without your knowing it?

Ans. I think not.

Ques. by same. Where is he now?

Ans. I do not know.

Ques. by same. Where does he reside now?

Ans. I do not know. The report is that he has gone down to his father's or mother's.

Ques. by same. When did he go?

Ans. I do not know.

Ques. by same. Have you known of his being in Liverpool since the election?

Ans. I do not know whether I have seen him since or not.

Ques. by same. Do you know whether or not he started for his father's or mother's on Saturday preceding the election, and went as far as Columbia, Lorain county?

Ans. No, sir. I do not know any such thing.

Ques. by same. Do you know that he did not start for Columbia, as above stated?

Ans. No, sir.

Ques. by same. How long have you been acquainted with Albert G. Lawrence?

Ans. I have known him some three years. Three or four years, I believe.

Ques. by same. When did he first commence trading in Liverpool, and how long did he continue?

Ans. He commenced, I think, in the summer or fall of 1847. He continued to trade there until the summer or fall of 1848.

Ques. by same. At what time did he leave Liverpool permanently in 1848?

Ans. As near as I recollect, it was the last of August or September.

Ques. by same. Was he not there often, and spend much time there, after August or September, as stated, until and after the State election, settling his business?

Ans. He was there occasionally. But I do not know of his staying more than a day at a time, or over night, during the time mentioned in the question.

Ques. by same. How far do you, or did you reside, from where Lawrence resided in Liverpool?

Ans. About one half mile.

Ques. by same. Do you own a farm, and cultivate it, where you live?

Ans. I do.

Ques. by same. Might not Lawrence have come to Liverpool and remained more than one or two days without your knowing it?

Ans. He might.

Ques. by same. Do you know that he voted the whig ticket?

Ans. I am not positive that he did.

Ques. by same. You do not know, do you, that he did not vote for James C. Johnson for Representative?

Ans. I do not know positively.

Question by contestee's counsel. State your opinion as to what ticket Lawrence voted, and the reasons therefor.

Answer. My opinion is that he voted the whig ticket. (Objected to.) My first reason is, I consider Mr. Lawrence a whig. My second is, from the size and appearance of it, I thought it to be whig ticket.

Ques. by same. Did you observe his ticket when he voted?

Ans. I did.

Ques. by same. Judging from its size, could either his or Ridgway's ticket have been a democratic ticket?

Ans. I think not.

Ques. by same. What other tickets were voted which were smaller than the democratic ticket, and corresponding in size and appearance with those voted by Ridgway and Lawrence?

Ans. There was one free soil ticket that I believe was rather smaller than the whig ticket, that was the only ticket except the whig ticket, that was smaller than the democratic ticket.

Ques. by same. If you know, state who voted said free soil ticket, and whose name was on it for representative?

Ans. I do not know who voted it. Brush said he voted it, and I suppose he did, he told me so; do not recollect whose name was on it.

Ques. by same. State if you know whether Badger left for a temporary purpose, and with the intention of returning or otherwise?

Ans. Do not know.

Ques. by same. What have you heard in regard to it and from whom?

Ans. I was asking Henry West a few days ago where Badger had gone, he stated that he had gone down to his father's or mother's, I do not know which; I asked him when he was coming back, he said he would be back in the course of a month or two, he did not know.

Ques. by same. Is said West, the person with whom said Badger resided, or a member of the same family in which he resided last before leaving?

Ans. He is a member of the same family.

Ques. by same. Was not Badger in the habit of visiting or stopping at Hoxies in Columbia, while residing in Liverpool?

Ans. I do not know, but by report.

JASON MATHUS.

Also, John Barnaby, of lawful age and being first duly sworn, on the 28th day of November, A. D., 1848, deposes and says that I am clerk of the township of York, Medina county, Ohio; I also acted as one of the clerks of the election held on the 10th of October last; the tickets cast at that election, have been in my possession since said election, and I have them present. I have counted the ballots in company with Judson five or six times, and tallied for Johnson for representative, we made 56 for James C. Johnson, and one for J. C. Johnson for representative. I have since counted them since that in company with Mr. Fenn, one of the judges, we made 56 for James C. Johnson, one for J. C. Johnson, 101 for Bell, and 13 for English, (which last tickets were headed free soil,) for representative. I have to day in company with Charles Castle, Esq. Judson, Mr. Kimball, in Hills & Kimball's office, assisted in counting. I called the names for representative from the tickets, Esq. Judson looking over. Charles Castle, Att'y, for contestor, and F. D. Kimball, Attorney for contestee, kept the tally; we made 98 for James A. Bell, 3 for J. A. Bell, 56 for James C. Johnson, 1 for J. C. Johnson, and 13 for Robert English.

There were 102 votes returned on the poll books for James A. Bell, and 55 for James C. Johnson. In counting at the close of the polls, I made one less for Johnson than the other clerk, and my poll book was returned to the Clerk. The vote for J. C. Johnson was not returned nor counted.

Ques. by Contestor's Counsel. Is the vote presented here by you, marked No. 4, and attached and made part of this deposition, the one spoken of by you as the vote for J. C. Johnson?

Ans. It is.

[No. 4]—WHIG TICKET.

For Governor—SEABURY FORD.

For Congress—JOSEPH M. ROOT.

For Senator—HARRISON G. BLAKE.

For Representative—J. C. JOHNSON.

For Sheriff—ALLEN R. BURE.

For Auditor—SAMUEL H. BRADLEY.

For Recorder—SAMUEL J. HAYSLIP.

For Commissioner—STEPHEN C. OVIATE.

For Coroner—LEWIS C. CHATFIELD.

Ques. by same. Was that vote cast at the late State election in York?

Ans. It was.

Ques. by same. Was it counted for James C. Johnson?

Ans. It was not.

Ques. by same. Why was it not counted, and what was it called by the judges?

Ans. Because the judges did not make out any name for representative; the "J. C." they called 26, and the other was called by some of them "Whig."

Ques. by same. Where and how have the votes been kept which you have here to-day, and have also been counted here, and that you have above referred to as having been examined by you in company with Esq. Judson and Fenn.

Ans. They have been kept in a cupboard, in my house, in the ballot box, unlocked, until the Presidential election, and since that time they have been loose in said cupboard; that is, on one of the shelves, on the string as originally strung.

Ques. by same. Have they been accessible to persons in and about your house since you have kept them?

Ans. They have not been under lock and key; the cupboard is where no one goes to it except my own family, to my knowledge.

Ques. by same. May they then not have been changed by some person or persons without your knowledge?

Ans. I suppose they might be; but after all it is not very probable.

Ques. by same. Do you know that they have not been changed, and that they are here to-day, or that they were when you and Esq. Judson and you and Mr. Fenn counted them, just as they were when counted at the election?

Ans. I cannot say that I know.

Ques. by contestee's counsel. Do you think it probable, or have you any reason to believe, that any person has altered, changed or taken away any of said tickets since they came into your custody at the polls?

Ans. I cannot say that I have any reason to think so.

Ques. by same. Does the number of ballots on the string correspond with the number of voters at said election, counting the ballot cast by Mr. Hewett, in regard to which you have heretofore testified?

Ans. They would.

Ques. by same. What are your politics, and for whom did you vote for representative?

Ans. I claim to be a free soil man, and I voted for James A. Bell.

Ques. by contestor's counsel. Did you believe your tally at that election to be right?

Ans. I believed it so at the time.

JOHN BARNABEE.

Also, Silas Judson, of lawful age, and being first duly sworn, on the 28th day of November, A. D., 1848, deposes and says: I have heard

the above deposition of John Barnabee. I am the individual I suppose referred to by him as assisting in counting the ballots. I also concur in his statements in reference to the count at the time I assisted.

SILAS JUDSON.

Also, Theodore Branch, of lawful age, and being first duly sworn, on the 28th day of November, A. D., 1848, deposes and says: I reside in the township of York, Medina county. I am an elector in that township, and voted at the late state election. I have seen the ticket attached to John Barnabee's deposition. I should think it was the ticket that I voted at said election. I took a whig ticket and scratched out the name of Bell and inserted the name of J. C. Johnson myself. I intended to vote for James C. Johnson for representative.

Ques. by contestee's counsel. Have you to-day seen the tickets cast in said township, and is there any other resembling the one you voted for representative?

Ans. I have seen them and saw no other resembling it.

THEODORE BRANCH.

Also, Edward L. Warner, of lawful age, and being first duly sworn, on the 29th day of November, A. D., 1848, deposes and says: I am the Clerk of the Court of Common Pleas for Medina county, Ohio. I have examined the record of said court, and find that Richard Ridgway filed his declaration of an intention to become a citizen of the United States, in said court, on the 7th day of October, A. D., 1844. I think it is, and am unable to find any record of his taking his final oath and certificate in said court.

Ques. by contestor's counsel. Are you acquainted with Cornelius Higgins?

Ans. I am.

Ques. by same. To what political party does he belong?

Ans. I suppose like the great majority of the soldiers that came from Mexico, he is a democrat.

Ques. by same. Did he vote at the last state election?

Ans. He told me he did.

Ques. by same. Did he leave here to go to Kentucky to live in the summer of 1847.

Ans. I should think he went from here in the Spring of 1847, to go to Kentucky as I supposed, or it might have been in the summer of 1847.

Ques. by same. When did he return?

Ans. I should think some three months since.

Ques. by contestee's counsel. Have you heard said Higgins say that he left Ohio with the intention of his returning?

Ans. He told me that when he went to Kentucky he went with the intention of returning.

Ques. by same. Did not said Higgins spend the largest proportion of the time he was absent in Mexico, as a volunteer?

Ans. He told me that he remained in Kentucky about four months, I think, then enlisted and went to Mexico, and returned from there to this place, and has resided here since he came back, I think.

Ques. by same. How long has he resided here previous to his going to Kentucky?

Ans. I have known him 12 or 14 years, and I think he has resided here most of the time.

Ques. by contestor's counsel. Have you heard from Higgins, whether, when he left Ohio to go to Kentucky, he went with the intention of staying a definite or indefinite time?

Ans. I have not. I suppose when he went to Kentucky, he went in the employment of Judge Sargent, who resides here.

Ques. by same. Was Judge Sargent interested in a farm in Kentucky, that he is occupying, and also a mill?

Ans. I have understood that Judge Sargent, or his son, or both together, own a farm in Kentucky, and that they have been building a mill thereon.

R. S. WARNER.

Also, Azariah Barber, of lawful age, and being first duly sworn, on the 29th day of November, A. D., 1848, deposes and says:

Ques. by contestee's counsel. Do you know Moses Terrill, and if so, how long have you known him?

Ans. I do. I have known him over 8 years.

Ques. by same. Are you acquainted with the general character of said Terrill for truth and veracity?

Ans. I am; but for the last 3 years I have not known much about him.

Ques. by same. Is it good or bad?

Ans. Prior to the last 3 years it was none of the best, but have seen worse men than Moses Terrill is, but they are few, in my estimation.

Ques. by same. Would you believe him under oath?

Ans. In the condition that I have most invariably seen him, I could not.

Ques. by contestor's counsel. In all your answers respecting Moses Terrill, you refer to what he was more than 3 years ago, when you was more intimately acquainted with him?

Ans. I do.

Ques. by same. When Moses Terrill was a sober man, would you not have believed him under oath?

Ans. If he was a sober man I should believe him.

Ques. by same. You do not know now but that his habits are better than when you was more intimately acquainted with him?

Ans. I do not know but they are.

AZARIAH BARBER.

Also, Joseph Ross, Esq., one of the Justices taking the foregoing depositions, by consent of parties, being duly sworn, on the 29th day of November, A. D., 1848, deposes and says: I reside in the township of Guilford, Medina county, Ohio. I was one of the judges of the election in Guilford township aforesaid, on the 10th of October last. I recollect that George C. Baker presented his vote at said election.

Ques. by contestee's counsel. Did he in answer to questions propounded by the judges or person who challenged his vote, state that he had come to Guilford to vote?

Ans. If he did I did not hear him.

Ques. by same. State what you know in regard to his making Guilford his home when unemployed elsewhere?

Ans. He is in the habit of coming there, whether he is out of employment or not I do not know, and remaining one or two days, and sometimes longer.

Ques. by contestor's counsel. Do you know what his business is when he comes there, except the time when he finished Wilcox's wagon?

Ans. I do not know except what he told before the judges at said election.

Ques. by same. Has he any ostensible business, or friends, or family there, that seem to justify the belief that he comes there to make it a home?

Ans. In regard to his business, I have understood that he has had wagon woods there, (do not know whether finished or unfinished,) and from that, and also seeing him there, I got the impression that he came there to make some disposition of them. He has a brother who has no family there, and he has no family; but as he has formerly resided there, I suppose he comes there when out of business otherwheres, more than at other places.

Ques. by contestee's counsel. What did said Baker, when before the election board, state his business to be when at Guilford?

Ans. He stated that he came there, to remain, if he could obtain work, according to my recollection.

JOSEPH ROSS.

To the Hon. Speaker of the House of Representatives of Ohio:

The State of Ohio, Medina county, ss.

We, B. Prentiss, of Montville township, and Joseph Ross, of Guilford township, both of Medina county, Ohio, do hereby certify that the above named Flavius J. Wheaton, Elisha Ingraham, George C. Miller, Calvin Phillips, J. A. Rettig, O. S. Coddling, William F. Sheldon, Eugene Gilchrist, Jasen Mathews, John Barnaby, Silas Judson, Theodore Branch, E. L. Warner, Azariah Barber and Joseph Ross, were by us duly sworn to testify the truth, the whole truth, and nothing but the truth, in a certain contest between James A. Bell, contestor, and James C. Johnson, contestee, for a seat in the House

of Representatives of Ohio, and that the foregoing depositions by them respectively subscribed, were reduced to writing by one of us, and were taken at the time and place specified in the enclosed notice, and at the dates of each deposition.

In testimony whereof we have hereunto set our hands and seals, this 29th day of November, A. D. 1848.

B. PRENTISS, J. P. [SEAL.]

JOSEPH ROSS, J. P. [SEAL.]

DEPOSITIONS OF JOHN HEWITT, AND OTHERS,

Taken at the office of Hills and Kimball, in Medina, Medina county, Ohio, on the 6th day of November, 1848, and on the other days mentioned in said depositions, agreeably to the inclosed notice, to be read in evidence in a contested election, before the House of Representatives of the State of Ohio, wherein James A. Bell, of Medina county, an elector and a candidate for said House of Representatives, at the election on the 10th day of October, 1848, in and for the representative district composed of said county of Medina, contests the right of James C. Johnson to a seat in said House of Representatives; taken before Joseph Ross and Barney Prentiss, justices of the peace in and for said county of Medina.

The said John Hewitt, being of lawful age, and duly sworn, deposeseth and saith :

I reside in York, Medina county, Ohio, have lived there 14 or 15 years. Was born in the United States, and voted at the election in York aforesaid, on the 10th of October, A. D. 1848. I voted the whig ticket throughout.

Ques. by the contestee's counsel. For whom did you vote for representative?

Ans. I forget. I had no glasses, and could not see to read it.

Ques. by same. How do you know that you voted the whig ticket?

Ans. I could not see to read it, but I showed it to Mr. Albert Bates, and he said it was right.

Ques. by same. What time of day did you vote?

Ans. Some time about one or two o'clock. Cannot tell just exactly.

Ques. by contestor's counsel. What ticket did you intend to vote at the aforesaid election, whig or democratic?

Ans. I meant to vote the whig ticket, call it what you are a mind to.

Ques. by contestee's counsel. What person did you intend to vote for for representative?

Ans. I cannot tell. I meant to vote for the same that others voted for.

Ques. by same. How many kinds of tickets were there voted at that election?

Ans. I do not know.

JOHN HEWITT.

Also, Albert Bates, of lawful age, being first duly sworn, on the 6th day of November, A. D. 1848, depose and saith :

At the election on the 10th day of October, A. D. 1848, in York township, Medina county, Ohio, John Hewitt came to me with a vote, or I handed him one, I do not recollect which. He wanted to know if it was a whig vote. I examined it and told him that it was. It had the name of James A. Bell as representative to the State Legislature. I went with him up stairs and saw him hand the vote to the judges of the election. Mr. Hewitt has resided in York aforesaid, 14 years this fall, I think, would not be positive. His age is about 80 years, and has, I think, always attended the elections since he has resided here.

ALBERT BATES.

Also, Arza Pearson, of lawful age, being first duly sworn, on the 6th of October, A. D. 1848, depose and saith :

I was one of the judges of the election in York township, Medina county, Ohio, on the 10th day of October, A. D. 1848. John Hewitt came to the polls and voted, by giving me the ballot. I put it in the ballot box, and proclaimed his name. I have since examined the poll books, and John Hewitt's name is not inserted in either of them.

(The contestee's counsel objected to the testimony, so far as the witness' statement of the said Hewitt's name not appearing on the poll book, on the ground that the poll book itself should be produced as the best evidence.)

Also, that at the closing of the polls on the day of the aforesaid election, there were 171 names on the poll book, and 172 votes in the ballot box, and that the last vote taken out of the box was not counted ; which vote was the entire whig ticket throughout, including the name of James A. Bell for representative.

Ques. by contestee's counsel. Is there an individual in the aforesaid township, and a voter, by the name of John Hewlett?

Ans. There is such a person, and I suppose he is a voter, having frequently voted.

Ques. by same. Did he vote at that election?

Ans. He did. He likewise gave me his ballot.

Ques. by contestor's counsel. Is John Hewitt and John Hewlett different persons?

Ans. They are different individuals, and both voted at the aforesaid election.

ARZA PEARSON.

Also, Charles Fenn, of lawful age, being first duly sworn, on the 6th of November, A. D. 1848, deposeth and saith :

I was one of the judges of election held on the 10th of October, A. D. 1848, in York township, Medina county, Ohio, at Richard M. Lamson's tavern in said township. I am acquainted with John Hewitt, and have been for 14 years. He voted at the aforesaid election. At that election there were 171 names registered, and 172 ballots in the ballot box. The ballots were counted three times, and at each time they overran one more than the names registered, and the last vote counted out of the box was not reckoned in the returns, which was a whig ticket throughout. James A. Bell's name was on it for representative to the State Legislature.

CHARLES FENN.

Also, John Barnaby, being of lawful age, and being first duly sworn on the 6th day of November, A. D. 1848, deposeth and saith :

That I am the clerk of the township of York, Medina county, Ohio, and was one of the clerks of the election held on the 10th day of October, A. D. 1848, in said township. I have had possession of the poll book of the aforesaid election up to the present time. The paper marked "number 1," is a true copy from said poll book, so far as the names and number of votes are concerned. I recollect of John Hewitt's voting at said election, and the inquiry to him whether he would vote for the sale of the school lands, and others coming up to vote at the same time, was the probable reason why his name was not registered.

Ques. by contestor's counsel. Is there any other person by the name of Hewitt, except John Hewitt ; and if so, what is his christian name, and did he vote at said election ?

Ans. There is ; viz : William Hewitt, and he voted at the aforesaid election.

Ques. by contestee's counsel. Did you keep a separate poll book for the vote on the sale of school lands ?

Ans. I did.

Ques. by same. Does the name of John Hewitt appear on that book ?

Ans. It does not.

Ques. by same. What is the number of names on that book ?

Ans. There was, I think, 12 less. Some did not vote either way in reference to the school lands, and those were not registered.

Ques. by contestor's counsel. On counting the votes, was there found more votes in the box than the number of names registered ; and if so, how many, and was the same counted and put into the returns ?

Ans. There was one, but it was not counted in the returns. Said ballot had the name of James A. Bell for representative to the State Legislature.

JOHN BARNABEE.

Also, David Ransom, being of lawful age, and being first duly sworn, on the 8th day of November, A. D. 1848, deposes and says:

That he is acquainted with Sherman Ransom. He is my son, and if I am not mistaken he will be 20 years old next February. He lives in Spencer, in Medina county, Ohio, and has lived there some 6 weeks or 2 months.

Ques. by contestor's counsel. Have you heard Sherman Ransom say any thing about voting on the 10th of October last; and if so, what?

(This question was objected to by contestee's counsel.)

Ans. I have not heard him say.

And further this deponent saith not.

DAVID RANSOM.

Also, Charles Castle, of lawful age, being first duly sworn, on the 9th day of November, A. D. 1848, deposes and says:

That he had a conversation with the above named Sherman Ransom, in which he told me that he voted in the township of Spencer, Medina county, Ohio, on the 10th of October last, and that he voted for James C. Johnson for representative. That he was not 21 years of age.

(The contestee objected to the above testimony of Charles Castle, on the ground that it is not the best testimony that could be produced.)

Ques. by contestee's counsel. When did the conversation above alluded to happen, and where?

Ans. Last week on Friday, at the center of Spencer, in this county.

Ques. by same. Did you inform said Ransom, at the time, for what purpose you wished to know the above facts; and if so, what that information was?

Ans. I told Mr. Ransom, before asking him any questions, that there was a contest contemplated, and that it was said that he had voted in Spencer, on the 10th of October last, and that he was not of age, and I wished to know if he did vote as aforesaid, for whom he voted for representative, and also I wished to know his age.

Ques by same. What is his apparent age?

Ans. From his appearance I should think he was from 22 to 25 years of age. I should not judge him less than 22.

And farther this deponent saith not.

CHARLES CASTLE.

Also, Henry P. Camp, being of lawful age, being first duly sworn, on the 8th day of November, 1848, deposes and says:

I reside and am a citizen of the township of Homer, Medina county,

Ohio, and also assisted in counting the votes polled at an election held in said township, at the State and Congressional election in October last; James A. Bell and Joseph Mantz assisted me, it being on the 28th of October last. I think we found on the poll book, 165 names as numbered on said book; there were also 165 votes on the string; there were 135 of them had James C. Johnson's name on them for representative, and 23 with James A. Bell's name on them for representative, and 6 had Robert English's name for representative, and one vote which was full except the name of James C. Johnson, which was stricken out.

Ques. by Contestee. How soon did you see those tickets after the day of election?

Ans. On the 28th day of Oct. last.

Ques. by same. Do you know where those ballots had been kept?

Ans. I do not.

Ques. by same. Do you know whether those are the ballots cast at that election or not?

Ans. I do not.

Ques. by same. Do you know how many ballots were cast at that election?

Ans. I do not.

Ques. by same. At whose request did you count those ballots?

Ans. I assisted in counting them at the request of Mr. J. A. Bell.

Ques. by same. Do you know whether there were any more ballots in number cast on that day, than you found on that string?

Ans. I do not.

Ques. by Contestor's Counsel. Why do you know or believe that those ballots that you counted, were the ones that were cast on the 10th of October last, in the township of Homer,—and was there any other person present at the time you assisted in counting them?

Ans. They were presented by the clerk of said township in the ballot box, he took the key and opened the box that contained the ballots, and remarked that the box had not been opened since the day of election, and James A. Bell, Joseph Mantz, and some other person whom I did not know, assisted in counting.

And further this deponent saith not.

H. P. CAMP.

Also, Joseph Mantz, of lawful age, being first duly sworn, on the 8th day of November, A. D., 1848, deposes and says:

I am the township clerk of the township of Homer, above mentioned; did not act as clerk on the 10th of October last, at the election in said township; I received the ballot box locked up from one of the judges, and also the key was delivered to me at the same time, on the evening after the election, and they have been in my possession since that time. It was not opened to my knowledge, until the day I assisted Mr. Camp and others, about the 28th of October last; at the first counting, they were read by Mr. Bell, and Mr. Camp kept the tally, on the second time looking them over, Mr. Bell, read the name of Mr.

Johnson, on all the ballots, and I and Mr. Camp kept the tally; there was another person came with Mr. Bell, that I did not know, who assisted some in counting and looking them over; we found on the first time counting, 134 for Mr. Johnson, for representative, 23 for Mr. Bell, and 6 for Mr. English, and one ticket with Mr. Johnson's name crossed out. The second time we found 135 for Johnson, for representative, the others we did not count; the first time they were looked over I examined and saw each ticket and should think that they were counted correct; the second time I kept the count and did not look over the tickets.

Ques. by Contestee. Who looked them over the second time?

Ans. Mr. Bell and the stranger that came with him.

Ques. by same. Were all the tickets read and counted the second time looking over?

Ans. I do not know, I kept the tally and there were 135 names for Johnson read over.

Ques. by same. From whose reading did you keep the tally?

Ans. Mr. Bell's.

Ques. by same. Was the number for James A. Bell tallied down on the second reading?

Ans. No.

Ques. by same. Was the number for Robert English, read over and tallied the second time reading?

Ans. They were not.

Ques. by Contestor's Counsel. Did you look over and count the votes once or twice without keeping count or tally on paper?

Ans. We counted the ballots once without keeping tally to see if the number agreed with the poll book, and if I am not mistaken we found the same number of ballots that there were names on the poll book.

Ques. by same. Did the number of ballots on the string agree with the aggregate number of votes for representative, as you have stated them above in your first count?

Ans. I think there was one ballot more on the string than was tallied.

Ques. by same. Was there more ballots on the string than names on the poll book?

Ans. No, I guess they agreed.

Ques. by Contestee. Did you pay particular attention to the counting of the ballots?

Ans. No not so very particular, but I saw that they were counted correct.

And farther this deponent saith not.

JOSEPH MANTZ.

Also, Dyer J. Perkins, of lawful age, being first duly sworn, on the 8th day of November, A. D., 1848, deposes and says:

I and Robert Mahan, jr., were clerks of the election in Homer, above mentioned, on the 10th of October last; I kept one poll book and he the other. The poll book that I kept was returned to the Clerk on

the Court of Common Pleas, of Medina county, Ohio; after the polls were closed on the day of election, we commenced counting, and continued until they were all taken out of the box; the judges then counted the ballots, and found more ballots than names on the poll book; I think more than one but not over three, they were counted several times, and no two counts agreed, but there was one ballot taken off the string and thrown one side, on the table or in the box, I do not know which.

Ques. by Contestor's Counsel. Was the tally altered after you found an excess of votes, or did you return all that was originally counted for representative?

Ans. The tally was not altered, but all returned that was first counted.

Ques. by same. Do you remember the number of electors on the poll book kept by yourself?

Ans. I would not be positive but think it was one hundred and sixty-four.

Ques. by same. Do you remember whose name for representative was on the ballot that was last counted?

Ans. It was said to be a democratic vote.

Ques. by same. Who was candidate for representative on the democratic ticket?

Ans. James C. Johnson.

Ques. by contestee. Did the two poll books agree as to the number of names of electors?

Ans. I had neglected to put one name that was on the other poll book down, but it was rectified by inserting the name on my list that was omitted.

Ques. by same. Did the whole number of votes strung and counted agree with the number of electors on the poll books after they were rectified and made to agree?

Ans. They did not agree, one ballot was taken off the string.

Ques. by same. How do you know that they disagreed?

Ans. By the statement of the judges.

Ques. by the same. Did you say in your first statement that no two of the judges counted them alike?

Ans. I might have said so, and I think the first time they counted they did not agree, but they were counted several times; they finally agreed, as I understood it; they threw off one ballot and called it correct.

Ques. by same. Was that the way you received your information that there was one more ballot on the string than was tallied?

Ans. I received my information from the judges.

Ques. by the same. Do you know of an elector who voted at that election whose name was not registered?

Ans. I do not know from personal knowledge.

Ques. by contestor's counsel. Did you not intend to keep a correct list of the voters at that election?

Ans. I did.

Ques. by same. Was there any paper found in the ballot box except ballots, and if so was it folded up as ballots usually are?

Ans. There was a paper found in the box about the size of a ballot and it was folded as ballots usually are.

Ques. by Contestee. Was it difficult to keep the poll books correctly as to the register of names of electors, and if so, why?

Ans. It made it rather more difficult to keep the poll books on account of voting "sale" or "no sale," of school lands, as the clerks had to keep two set and consequently would be rather more likely to make mistakes, and farther this deponent sayeth not.

DYER J. PERKINS,

Also, Henry P. Howd, of lawful age, being first duly sworn, on the 9th day of November, A. D. 1848, deposes and says, that I am the clerk of the township of Lichfield, Medina county, Ohio, and also acted as one of the clerks of election on the 10th of October last. There were three different kinds of tickets used at that election, the whig ticket, democratic, and free soil, so called. There were 8 tickets polled headed free soil, viz: 5 whole tickets and 3 mutilated tickets. I think there was but one of the three that had Bradley's name on for auditor, and the same ticket James Bell's name was on it for representative, and that the ticket hereto attached I believe to be the same one referred to, marked No. 2.

[No. 2.]—FREE SOIL TICKET.

For Governor,
Representative in Congress,—JOSEPH M. ROOT,
Senator in Legislature—AARON PARDEE.
Representative—JAMES BELL.
Sheriff—JOSIAH B. BECKWITH.
Auditor—SAMUEL BRADLEY.
Recorder—MILO LOOMIS.
Commissioner—HALSEY HURLBURT.
Coroner—HENRY CHAPIN.

Ques. by contestee. When did you examine the ticket referred to above?

Ans. It was several days after the election.

Ques. by same. Did you examine all the free soil votes.

Ans. I did not; I examined all that were mutilated; and farther this deponent sayeth not.

HENRY P. HOWD.

Also, Leman S. Beckwith, of lawful age, being first duly sworn on the 8th day of November, A. D. 1848, deposes and says:

I reside in Lichfield, Medina county, Ohio; am a legal voter in that township, and voted there at the State election on the 10th of October last. The ticket above attached to Mr. Howd's deposition, marked "No. 2," I think is the ticket which I voted at that election; the names of Samuel Bradley and James Bell being my hand writing as I be-

lieve. I intended to vote for Mr. Bell for representative, the same individual who contests James C. Johnson's right to a seat in the House of Representatives of this state, and did not know that there was any other individual by the name of James Bell or James A. Bell.

Question by contestor's counsel. Did you ever see the contestor, Mr. James A. Bell, before said election; and if so is he the person you intended to vote for, for representative to the state legislature, in casting the above ticket?

Ans. I saw Mr. James A. Bell at a political meeting before the state election, in Lichfield, and also have seen him several times in Seville, in this county, and he is the individual that I intended to vote for in casting the above ticket.

Ques. by contestee. How do you know that the ballot above referred to is the one you voted at the aforesaid election?

Ans. I examined the ballots in the ballot box, cast at that election, on the 5th of November, and did not find any ticket, but the one referred to, that corresponded with the individuals that I voted for; it was a free soil ticket that I voted, there was no name on it for Governor; I erased the names for representative and auditor and inserted the name of James Bell for representative and Samuel Bradley for auditor, and recognize my hand writing on the ballot above referred to, and farther this deponent sayeth not.

L. S. BECKWITH.

Also, Joseph Fitch, of lawful age, and being first duly sworn, on the 9th of Nov., A. D. 1848, deposes and says:

I am clerk of Medina township, Medina county, Ohio, and acted as one of the clerks of the election held on the 10th of October last. One of the judges returned the ballots on a string which I deposited in the ballot box on the eve of the aforesaid election, and they remained there, undisturbed, until last Tuesday, the 7th of November, and those ballots presented are the ones referred to. I am unwilling to deliver up the tickets to be made part of this deposition, or any of them, because he thought he was bound by law to retain them.

Question by contestor's counsel. Was there a ballot for Representative found in the ballot box on counting, for "J. h. Bell," and for whom was it returned?

[Question and answer objected to by contestee, and was overruled by us on the ground that it was not specified in the contestor's notice to the contestee.]

Ques. by same. Was there, or did you hear of any person by the name of Bell, as a candidate for Representative to the State Legislature, from Medina county, except the contestor, James A. Bell?

Ans. No, sir.

Ques. by same. Do you know, or did you ever hear of any person residing in Medina county, by the name of Bell, the initials of whose christian name was J. H.?

[The question and answer objected to by contestee's counsel, and overruled by us, for reasons above stated. The contestor's counsel offered them under the second and sixth grounds mentioned in the notice.]

JOSEPH FITCH.

Also, John Frank, of lawful age, being first duly sworn, on the 9th day of November, A. D. 1848, deposes and says: I am clerk of the township of Guilford, Medina county, Ohio, and also acted as one of the clerks of election on the 10th of October last. I have the ballots that came into my hands on the evening of election, from one of the judges of that election in said township. There were two ballots for J. C. Johnson, for Representative, which were counted and returned for James C. Johnson; and also one ballot on which was written across the back with the name of James C. Jonson, with no designation for any office, but on the inside of the ballot the name under the words "For Representative," were cut out, and which was counted and returned for James C. Johnson, for Representative; and also one ballot on the right hand margin of which was written the name of James C. Jonson, but with no designation of office on said margin, but the words "For Representative," were left on the body of the ballot, and the name under the same, cut out, which ticket was counted and returned for James C. Johnson. I am also acquainted with James A. Bell, and I know of no other person by the name of Bell, running for the office of Representative, or for any other office, at that election, within Medina county.

Question by contestee's counsel. Was there any person by the name of Johnson, a candidate at that election, for the office of Representative, or for any other office, except James C. Johnson?

Ans. I know of none.

Ques. by same. Was James C. Johnson a candidate for any office, at that election, except for Representative?

Ans. He was not, to my knowledge.

Ques. by same. In the ballot above referred to, having the name of James C. Johnson on the margin, where does the name commence with reference to the words "For Representative," in the body of the ticket?

Ans. The second letter in the word "James," is directly opposite the words, "For Representative," and further this deponent saith not.

JOHN FRANK.

Also, Isaac S. Powers, of lawful age, and being first duly sworn, on the 9th of November, A. D. 1848, deposes and says that: I went to Homer, Medina county, Ohio, with Mr. Bell, I think on the 28th of October last, to examine the ballots polled at the late election, held on the 10th of October, in said township. I assisted in counting the votes, in company with Mr. Bell, Mr. Camp, and the township clerk. I stood by the side of Mr. Bell, who examined and called the tickets separately. I saw the examination at the time, and Mr. Camp kept the

tally, the first-time they were looked over. We found 123, I think, for Bell, 6 for Mr. English, and 134 for Mr. Johnson. The clerk was by and thought there was a mistake made in tallying, by Mr. Camp. We then counted again, and found 135 for Mr. Johnson, the clerk keeping the tally, and also Mr. Camp, which I believe to be correct. Also, we found one ticket with Mr. Johnson's name erased with ink. I handed the tickets on the string, separately each time, and Mr. Bell took them from me and proclaimed the names; and I am satisfied that they were called and counted correct. I do not believe that there was any other person by the name of Bell, who was running for the office of Representative or any other office in said county, at that election.

Question by contestee's counsel. Did you count the ballots?

Answer. I did, without tallying, to satisfy me that it was correct.

Ques. by same. How many did you make for Johnson, the first time counting?

Ans. I do not wish to be understood that I kept an account of the number of votes for each candidate, but looked over to see that they were called correctly.

Ques. by same. Have you examined the poll book; and if so, how many names are registered?

Ans. I have, and found the number against the last name to be 135. And further this deponent saith not.

J. S. POWERS.

Also, Seldon B. Welton, of lawful age, and being first duly sworn, on the 11th day of November, A. D. 1848, deposes and says: [The contestor did prove by the above named witness, a voter of Medina township, that he, the said Welton, cast the vote for Representative written "J. h. Bell," and returned for J. H. Bell, and that he intended it for said contestor, James A. Bell, and did not know of any other candidate by the name of Bell, except said contestor, and is personally acquainted with him, and that the character between the letter J. and Bell, he intended for an A. Said contestor offering said testimony under the 2d and 6th grounds of contest, all of which testimony we, the Justices, rejected on the ground that it would not be proper to take the same, under the notice of contest.]

Also, Mr. Riley F. Warner, of lawful age, and being first duly sworn, on the 11th day of November, A. D. 1848, deposes and says that: I reside in Liverpool township, Medina county, Ohio. I came there last spring with most of my property—cattle and hogs. I went from there to Middleburg, Cuyahoga county, to do a job of work. I finished that job and returned to Liverpool, about 6 days, I think, before the State election, on the 10th of October last. I offered my vote at said Liverpool, on the aforesaid election. The ballot was a regular whig ticket. James A. Bell's name was on it for Representative to the State Legislature. It was rejected by the judges, and they refused to let me vote. I have resided in this State 29 years, said Liverpool being my birth place, without being absent more than two or three days at any time from said State, and then for temporary purposes.

Ques. by contestor's counsel. When absent in Middleburg, doing said job, did you leave said personal property in Liverpool aforesaid, and did you consider that place your home?

Ans. I left my cattle and hogs in Liverpool. I had a horse in Columbia township, sometimes in a pasture and sometimes in the road, and I took a part of my clothing with me to Middleburg. I considered Liverpool my home as much as any where. My father's people lived there, and I returned to Liverpool as often as once in two weeks, while I was at Middleburg. I also had an article of a piece of land in Eaton, Lorain county, in this State, which I sold during the time I was in Middleburg.

Ques. by same. Have you a family?

Ans. I have no family.

Ques. by same. Was it your intention on the 10th of October last, and previous to that, to make Liverpool your permanent residence?

Ans. My intention at the time of election, and a few days previous, was to make Liverpool my home.

Ques. by contestee's counsel. How long had you been absent from Liverpool, previous to last spring, and where?

Ans. I believe it was 8 years ago. A part of the time in Columbia, and a part of the time in Eaton, Lorain county, Ohio.

Ques. by same. Was it your intention when you returned to Liverpool in the spring, to make it your place of permanent residence?

Ans. I do not recollect that I had any such intentions. I went there, and took the most of my property, thinking it a more suitable place, my father residing there, and with the intention of returning there when I had not business other wheres.

Ques. by same. What were you doing in Middleburg?

Ans. The most of my work was ringing coalpits. I worked some chopping cord wood, and some days in the furnace.

Ques. by same. How did you work, by the month or otherwise?

Ans. I rung coalpits by the job, chopped cord wood by the cord, and worked in the furnace by the day.

Ques. by same. How long do you now intend to reside in Liverpool?

Ans. Until I see fit to go away.

Ques. by same. Did you not offer your vote in Columbia after it was rejected in Liverpool?

Ans. No sir. I went to Grafton, Eaton and Columbia on the afternoon and evening after the election, on business. At Eaton only I offered my vote, stated to them that I had a right to vote somewhere, and that they rejected my vote in Liverpool. The judges told me that I could not vote there. Eaton was my last place of residence previous to going to Liverpool in the spring.

Ques. by same. Did you work your land in Eaton last season?

Ans. I rented it, and afterwards sold to the individual I rented to.

Ques. by same. Have you worked in Middleburg since the election, or do you intend to hereafter?

Ans. I have not, neither do I intend to, having no engagements

there. My business is and has been in Liverpool, since the election, principally.

Ques. by same. While at Middleburg where did you board, and where did you have your washing done?

Ans. I boarded in Middleburg while I was at work there, and had part of my washing done there, and part in Liverpool.

Ques. by same. Who challenged your vote in Liverpool?

Ans. I believe it was Jason Mathews, would not be positive, said something about it.

Ques. by same. Were you sworn.

Ans. Yes sir.

Ques. by same. Did you not refuse to answer the questions put to you by the board?

Ans. I do not recollect that I did refuse. The question was asked me if when I returned the last time I came with the intention of remaining. I told them that I had no particular intention one way or the other when I came, but I did state that since I came I had concluded to make it my home there.

Ques. by same. Were you asked the question whether you were a resident of Liverpool, or of the county of Medina; and if so, what was your answer?

Ans. Jason Mathews, an elector, while the matter was before the board, asked me if I was a resident of that township. I stated that I did not understand what constituted a resident sufficiently to answer the question. I was also asked the question by Mr. Ford, how long I intended to reside in Liverpool. I stated that I could not tell.

Ques. by same. Was Mathews one of the clerks of the election?

Ans. He was writing, but was not one of the judges, although I suppose he held some office.

Ques. by same. Were the questions read to you from the statute book; and if so, by whom?

There were two questions read from the statute book, by one of the board. The first was, "When did you last come into the county?" I answered, about six days previous to that time. The second question was, "When you came into the county, did you come with the intention of making it your home?" I told them in reply, that when I came I had no particular intention one way or the other, but since, I had concluded to make it my home there.

Ques. by contestor's counsel. What is your age?

Ans. 29 years, according to the best of my knowledge.

Ques. by same. Was it your object when you came into the county, to come for the purpose of voting?

Ans. It was not.

Ques. by same. Upon what ground did you understand that the judges rejected your vote?

Ans. Mr. Ford asked me the question, how long I intended to make it my home there. I told him I could not tell how long I should. Then one of the judges said that I was not a voter. Subsequently one of the judges asked me the two questions above stated, under

oath. Then the one that read the questions to me stopped and said something about my not giving satisfactory answers. Said Mathews then stated that I was not a voter. One of the board stated that the answers were satisfactory to him ; the two others decided that I was not a voter, and rejected it.

Ques. by same. What business have you been engaged in in Liverpool since you returned there ?

Ans. At work on my father's farm, and also on my brother's farm.

Ques. by same. Have you, since you came to Liverpool in October last, made any arrangement or determination to make your home elsewhere ?

Ans. No, I have not.

Ques. by same. Should you remove from Liverpool hereafter, would it not be from an intention or determination hereafter to be formed ?

Ans. Yes sir, it would.

Ques. by contestee's counsel. What compensation do you receive from your father and brother ?

Ans. When I labor for my brother I get for husking corn every 10th bushel. I have worked also for him by the day, and no price fixed for it. What work I have done for father there has been nothing said about. They have helped me and I help them.

RILEY F. WARNER.

Also, Charles Sabin, of lawful age, and being first duly sworn, on the 11th day of November, 1848, deposes and says :

I am acquainted with Marcus Sabin. He is my son, and I suppose if he voted any where he voted in Liverpool, Medina county, Ohio, at the last State election in October last.

Ques. by contestee's counsel. Where does said Marcus Sabin now reside ?

Ans. I do not know. He started from my house in said Liverpool, for the State of Michigan, on the 21st day of October last, for the purpose of residing there, as he informed me.

Ques. by same. How long had he resided in Liverpool previous to said State election ?

Ans. He came there on the 26th day of September last.

Ques. by same. Do you know when he came to Liverpool in September last whether he came with the intention of residing there permanently, or merely to make it his temporary residence until he started for Michigan ?

Ans. I suppose he came there to make a temporary residence until he started for Michigan.

Ques. by same. With whom did he board or reside during the time he was in Liverpool ?

Ans. He lived with me and also labored for me.

Ques. by same. Do you know from him or any other person for

whom he voted at the aforesaid election, for representative to the state legislature.

Ans. I understood from him in a conversation after the election, that he voted the whig ticket, and afterwards, in the same conversation, that he voted the democratic. This conversation was had between said Marcus Sabin and a boy, in my hearing. It occurred in the following manner: the boy charged him of being a whig; he, Marcus, said that he voted a whig ticket; afterwards, in the same conversation, he told the boy that he was not a whig, but that he voted the democratic ticket. (Objected to by contestee's counsel.)

Ques. by same. To what political party did Marcus Sabin belong?

Ans. I don't know that I can answer that question exactly. I had mistrusted that he voted the whig ticket. I thought from conversation a few days before the last election that he would vote the democratic ticket.

Ques. by contestee's counsel. While he resided with you did he have any other residence in the state of Ohio?

Ans. Not as I know of, and his family was at my house.

Ques. by same. Had he formerly resided in this county, and if so, where?

Ans. He had; in Lafayette township.

Ques. by same. For what purpose did he stop with you?

Ans. Until he could get ready to go farther.

Ques. by same. Is Liverpool on the direct road from Lafayette to Michigan, and if not, how far out of the way?

Ans. It is not on the direct rout, it being some 5 miles out of the way.

Ques. by same. Did he work for you while there?

Ans. He did.

Ques. by same. What is his age?

Ans. I do not know exactly; somewhere between 25 and 30 years of age.

Ques. by same. How long had he resided in Medina county?

Ans. I cannot tell exactly; but he has resided in this state about nine years.

Ques. by contestor's counsel. Had he broken up house keeping in Lafayette preparatory to moving to Michigan, and when going to your house was he on his way to Michigan, and while at your house was it not a temporary stop only for a few days.

Ans. I expect he had broken up house keeping in Lafayette when he came to my house. Marcus said before he came to my house, that he would stay here until another fall if he could take a farm. I told him that I would let my team go out to Michigan if he wished me, but I had rather he would get some other one, and if he wanted my team to go he must help me secure my fall crops first. He accordingly did come on the 26th of September last, assisted me in securing my crops, and my team started with his goods and family on the 21st day of October.

CHARLES SABIN.

Also, Mason Terril, of lawful age, and being first duly sworn, on the 11th day of November, A. D., 1848, deposes and says:

I reside in Liverpool, Medina county, Ohio. I am acquainted with Marcus Sabin. I saw him have a ticket, and also saw him hand it to the judges of the election in Liverpool aforesaid, on the 10th of October last, and heard his name called by one of the judges. I think it was put in the ballot box. Heard no objections. Did not see it put in. He showed me the ticket that he voted; it was a democratic ticket, with the name of Mr. Johnson, the regular nominee, for representative to the state legislature. No erasures on said ticket. Said Marcus Sabin is the reputed son of Charles Sabin, who has above testified. Do not know of any other individual by that name. After he voted he told me that he was on his way to Michigan. I told him if I had known it I should have objected to his voting.

Ques. by contestor's counsel. Are you acquainted with one Maverick Badger, and if so, did he vote at the aforesaid election in Liverpool?

Ans. I am acquainted with said Badger, and he voted at the aforesaid election.

Ques. by same. Do you know if the said Badger has been a convict in the Ohio Penitentiary, and served out his term of sentence there?

Ans. He said he had before the judges of the election, but Giddings got him out when the Supreme Court set; but before that he told me that he served his time out, and received his sentence in Ashtabula county, Ohio. (Objected to by contestee's counsel.)

Ques. by same. Is he still a resident of Liverpool, and if not, when did he leave?

Ans. He is not now a resident of Liverpool. He left there the last time on the day of election. He also started on Saturday before election, after settling with Mr. West, where he was boarding, taking his clothes and gun. Stated that he was going home to Pennsylvania, to his mother's. He went to Mr. Hoxie's in Columbia, in Lorain county, as he afterwards informed me. Came again to Liverpool on election day.

Ques. by same. How long had he resided in Liverpool previous to the October election, and has he a family?

Ans. He came to Liverpool about the commencement of last harvest, and had resided there about three months. He has no family that I know of. He said he had a boy. (Objected to by contestee's counsel.)

Ques. by contestee's counsel. How long had he resided in Liverpool previous to his coming last summer?

Ans. He has been there occasionally for the last five years, and perhaps more.

Ques. by same. With whom does he make it his home when there?

Ans. He has lived with different individuals, but the last time he made it his home with Mr. West.

Ques. by same. Has he not been considered a resident of Liverpool, and were not his absences temporary merely?

Ans. By some, he has not, and by some, he has. I cannot tell whether his absences were temporary or not.

Ques. by same. Has he voted there formerly?

Ans. I think he has voted there by what I have heard.

Ques. by same. What did he say about returning the last time he went away?

Ans. He said he did not think he should be back here very quick.

Ques. by same. How long before Sabin voted did he show you his vote?

Ans. He immediately went up to the polls with it.

Ques. by same. Did you give him a whig ticket?

Ans. I did not. He said he should not vote one.

Ques. by contestor's counsel. Do you know for whom said Badger voted for Representative to the state legislature, and if so, state?

Ans. He voted for Mr. Johnson, the candidate on the democratic ticket. He showed the ticket to me and went right up and voted it.

Ques. by same. Did you ever hear him state what place he claimed to be his home?

Ans. I have. He said his home was at his mother's, in Pennsylvania. (Objected to by contestee's counsel.)

Ques. by contestee's counsel. Did you challenge his vote, and if so, was he sworn?

Ans. I challenged him on the ground that he had been to the penitentiary, and he was also sworn.

Ques. by same. Did he state under oath that he was a citizen of the state of Ohio?

Ans. He did so state, under oath.

Ques. by same. What did he say in regard to his being in the Penitentiary?

Ans. He said he had been, but when the supreme court set, Giddings got him out.

MASON TERRIL.

Also, Moses Terril, of lawful age, being first duly sworn, on the 11th day of November, A. D., 1848, deposes and says:

I have been acquainted with the aforesaid Maverick Badger 16 or 17 years. Last July I was at his mother's, in the township of Girard, state of Pennsylvania. He, Maverick Badger, said he wished me to remain a short time, and he would come to Liverpool, in this county, with me; but I started home from there before he was ready; but he overtook me at Conneaut, in this state, and came with me to Cleveland. I left him there and came home to Liverpool, and he came the next day. He has made it his home at Girard, Pennsylvania, ever since I knew him. I saw him on the evening after the election in October last, in Liverpool. He said he was going to clear, and should not be seen there again very soon; and also said he was going home. He took his valise on the Saturday before the time he

started, as above stated, and said he was going to put out for Pennsylvania, and was going home. He said when he returned on the day of election, on the 10th of October last, that he had been at Hoxie's, in Columbia, Lorain county. I also know Marcus Sabin. He voted in Liverpool, Medina county, Ohio, on the 10th of October last. He showed me the ticket; it was a democratic ticket. I saw him hand it to one of the board, and heard his name called.

Ques. by contestee's counsel. When and where did you have this conversation with said Badger, about his going to Pennsylvania?

Ans. He told me at my house, and told me also on the way to Hoxie's, in the presence of West, the Saturday evening before the election.

Ques. by same. How long had he been absent previous to his return in July last?

Ans. It is my impression that it was not over six months.

Ques. by same. Do you know whether he intended to return, when he went away the last time but one, or one year ago this fall?

Ans. I should think he did. He gave his note (as I understood from him) to Pierce, and left his gun in pawn.

Ques. by same. How long had he been in Ohio previous to the time he left his gun in pawn?

Ans. I cannot tell.

Ques. by contestor's counsel. Has Badger relatives in Liverpool, in this county?

Ans. Has three cousins in said township.

Ques. by same. Has he had any fixed residence in Liverpool?

Ans. He has not, but has made brooms, worked by the day, and hunted some.

Ques. by same. Has he ever had any fixed steady business there?

Ans. He has not, without it was making one or two hundred brooms. He is always off and on, goes home, boats on the canal, says he is a great boatman, told what great wages he had at that business—a great hand for dogs.

MOSES TERRIL.

Also, John B. Tyler, of lawful age, and being first duly sworn, on the 11th day of November, A. D. 1848, deposes and says:

I was talking with him (Marcus Sabin) the day before the last State election, about how he was going to vote. He said he was going to vote the democratic ticket. I also know that Maverick Badger voted the democratic ticket at the aforesaid election. Said Badger has been in Liverpool occasionally, for several years, but I should not think he had been there a year at any one time. I do not know that he has any place that he calls his home.

Question by contestee's counsel. Where has he been when absent from Liverpool?

Ans. I do not know, sir.

Ques. by same. Did not Sabin tell you that he usually voted the whig ticket?

Ans. He did not say any thing in regard to it.

Ques. by same. How do you know that Badger voted the democratic ticket?

Ans. I saw him hand it to one of the judges of election.

Ques. by same. Have you known of his voting in said Liverpool before the time last referred to, and if so, how many times?

Ans. I have, as much as three or four times.

Ques. by contestor's counsel. Has his right to vote, ever been questioned there?

Ans. Not as I know of.

[Objected to by contestee's counsel, so far as Sabin's conversation with John B. Tyler.]

JOHN B. TYLER.

Jonathan Fitts, of lawful age, being first duly sworn, on the 11th day of November, 1848, deposes and says:

I was one of the judges of election, in the township of Harrisville, in said county, on the 10th day of October last. In counting the votes cast in said township at said election, we counted them just as they were, on the ballots. Those that were for James A. Bell, were counted for James A. Bell; those for J. A. Bell, were counted for J. A. Bell; and those for James Bell, were counted for James Bell. There were two ballots for J. A. Bell, for Representative, and one for James Bell, for the same office. There was no other person by the name or Bell, who was a candidate for Representative, or any other office at that election in said township of Harrisville, except James A. Bell.

Question by contestor. State what reason, if any, you had for counting the votes in that way, in said township.

Ans. Because we believed it to be our duty so to count them, and supposed the county board would correct our error if we were in error in counting thus. I supposed that the aforesaid three votes were given for and intended for James A. Bell, the whig nominee for Representative for Medina county, in the Ohio Legislature.

Question by contestee's counsel. Do you know a citizen in the county of Medina, by the name of James Bell, and if so, where does he reside?

Answer. I do not. I am not acquainted with the family of Bell.

Ques. by same. Were there any votes thrown out at said election, in said township, and if so, who were they for, for Representative?

Ans. There were two thrown out, given for James C. Johnson, that were not counted and not returned upon the poll book. One of the ballots was a democratic ticket throughout—James C. Johnson, for Representative—except the name for Sheriff, which had the whig nominee for Sheriff, pasted over the democratic nominee. Two of the judges decided that the ticket consisted of two pieces of paper, and for

that reason was thrown out, the other was a free soil ticket, containing the names of James C. Johnson, for Representative, and Wm. T. Welling, for Sheriff, on a piece of paper which was stuck on over the other nominees for the same office, which was also thrown out for the same reason. Both of the pieces of paper were so stuck on, that the under names could not be seen.

JONATHAN FITTS.

Henry Ainsworth of said county and of lawful age, being first duly sworn on the 11th day of Nov., 1848, deposeth and says, that he is the township clerk of the township of Harrisville, in said county, and that he was a clerk of the election on the 10th of October last; that at said election the votes were counted for the person whose name was on the ticket—those for James A. Bell were counted for James A. Bell, those for J. A. Bell were counted for J. A. Bell, and those for James Bell were counted for James Bell; that there were two tickets that had on them J. A. Bell for representative, that were counted and returned for J. A. Bell; also, that there was one ticket that had the name of James Bell on it for representative, which was counted and returned for James Bell; that there was no other person by the name of Bell who was a candidate for representative, or for any other office in said township of Harrisville at that election, within my knowledge, except James A. Bell.

Ques. by contestee's counsel. Have you heard the testimony of Jonathan Fitz, in his deposition above stated, and if so, do you concur in that testimony in regard to the two votes cast for James C. Johnson, which were thrown out?

Ans. I have heard his testimony and concur therein.

HENRY AINSWORTH.

Also, Reuben Dewey, of lawful age, and being first duly sworn on the 17th day of November, A. D. 1848, deposes and says:

I reside in Wadsworth, Medina county, Ohio; have resided there about 10 years; I am acquainted with George Dewey, he is my son, he resides with me at present; I do not certainly know his age, having lost the record some time since. I believe, by talking with my wife about it, she knowing the age of the youngest, and also the difference in the ages of the older ones up to the brother younger than him, that he was 21 the 25th day of last March; I also recollect that I was married in March, 1825; that I lived in North Stonington, Ct. one year from that time; I then moved to Preston, Ct., and lived there one year; I then moved to Groton, Ct., on a place that I had previously purchased, I think on the 23d of March, cannot tell what year, having nothing to take dates from. I have told my son that he was but 20 years old last March. My son George told me that he voted at the state election on the 10th of October last. I told him that he should not have voted without letting me know it; he replied that he did not know but I would object on account of difference in our political views. He stated to me that he voted for Weller.

Ques. by contestor's counsel. Why did you tell your son that he ought not to have voted?

Ans. I did not think at that time that he was old enough to vote.

Ques. by same. Did he vote at the election on the 7th of Nov. last, and if not why?

Ans. He did not vote to my knowledge; perhaps one reason why was that I told him he had better not vote, and for the reason that he was not old enough as I stated before.

Ques. by contestee's counsel. When and where was your son George born?

Ans. He was born on the second day after I moved to Groton, Ct. and reckoning from the above dates, it would be March 25th, 1827.

Ques. by same. How old is your youngest child?

Ans. 13 years old the 6th of June last, I believe.

Ques. by same. How many children have you younger than George?

Ans. 3, Shubel, Edward and Harriet.

Ques. by same. What is the difference between Edward and Harriet?

Ans. About 3 years I conclude, from conversations with my wife. Harriet was born in June and Edward in August.

Ques. by same. What is the difference in age between Edward and Shubel?

Ans. Between 2 and 3 years. Shubel was born in Oct.; the exact difference I cannot tell.

Ques. by same. What is the difference in age between Shubel and George?

Ans. Between 2 and 3 years. George was born in March.

Ques. by contestor. What means have you of knowing the age of Harriet?

Ans. Harriet is the youngest child. I moved from Connecticut to Ohio in 1836; started on the 18th of September, and Harriet was a little over one year old; she was one year old the 6th of June, before we started from Connecticut.

Ques. by same. Do you, in stating the difference in your children's ages, state from your own knowledge?

Ans. From information which I derive from my wife and my own knowledge too.

Ques. by contestee's counsel. How old does George say that he is?

Ans. He says he was 21 last March.

Ques. by same. Have you not paid him for his labor since that time?

Ans. I have.

Ques. by contestor. Which would be the most likely to know George's age, you or him?

Ans. I do not know how to answer that question. I thought I knew his age, but I believe I did not. I got an impression in my mind that he was not 21, but I began at one end and my wife at the other and we came out as I have above stated.

REUBEN B. DEWEY.

Also, Lafayette Hard, of lawful age, and being first duly sworn, on the 17th day of November, A. D. 1848, deposes and says:

I am acquainted with George Dewey; he told me he voted on the 10th of October last at the state election; he said he voted at said election the democratic ticket, with one exception, and that was for auditor. James C. Johnson's name was on the democratic ticket for representative to the State Legislature, I believe. I am a resident of Wadsworth, Medina county, Ohio; I have also heard said Dewey say that he did not vote in the subsequent Presidential election. (Objected to.)

Ques. by contestor. Are you acquainted with David Boger, and if so, did he vote at the state election on the 10th of Oct. last, and for whom did he vote?

Ans. I know said Boger, am not much acquainted with him. I know from an examination of the poll book and from said Boger's father, that he voted at said state election, but do not know for whom he voted. (Objected to.)

Ques. by same. Have you had any conversation with Boger about his voting at the election on the 10th of October last, and if so what?

Ans. I have had a conversation with him; he denied voting at said election; he said he had been out of the state more than a year previous to said election; that he had lost his residence thereof and had not the privilege to vote; he said he should vote the democratic ticket if he had been allowed to vote. (Objected to.)

Ques. by same. Was there any other person by the name of David Boger in Wadsworth, Medina county, Ohio, at the aforesaid election on the 10th of October last?

Ans. There was none to my knowledge.

Ques. by contestee's counsel. When did the conversation with Boger occur?

Ans. Day before yesterday, on the 15th of November, I believe.

Ques. by same. Were you endeavoring to obtain testimony for Mr. Bell in this case?

Ans. I was not endeavoring to procure testimony for Mr. Bell, but should not have gone but for Mr. Bell's request.

Ques. by same. What was said to Boger previous to the reply above given?

Ans. I informed him that he had voted and had no right to, and came there for the purpose of ascertaining the facts.

Ques. by same. Where did he say he had been during his absence from the state?

Ans. He said he had been in Pennsylvania, on the Ohio river, on the Mississippi river and in Wisconsin.

Ques. by same. How old is he, and has he a family?

Ans. I do not know his age, but judging from appearance, it is very doubtful in my opinion whether he is 21 years, he says he is; I do not know whether he has a family or not.

Ques. by same. What is your opinion of his statement with reference to his being out of the state and voting?

Ans. I believe he lied in both instances.

Ques. by same. Why do you think so?

Ans. By an examination of the poll book I believe he voted, and in a personal conversation with those that knew him who told me that he had not been out of the state a year.

LAFAYETTE HARD.

Also, William Foote, of lawful age, and being first duly sworn, on the 17th day of November, A. D. 1848, deposes and says:

I reside in Canaan township, Wayne county, Ohio; I have known George C. Baker some 3 or 4 years; am partially acquainted with him; he came to said Canaan township at the late presidential election and offered to vote, his vote was challenged on account of being a non-resident of said township; he was sworn; he testified that he had resided at Bridgeport, in said township 4 or 5 weeks; in consideration of that statement, and his intention of residing there, the judges allowed him to vote. (Objected to so far as relates to Baker's statements before the board.)

Ques. by contestee's counsel. Is Baker married?

Ans. I believe he is not sir.

Ques. by same. Where has he resided immediately previous to going to Bridgeport.

Ans. I understood that he had resided in the township of Guilford, Medina and Brunswick, in Medina county, and Wooster, Wayne county.

Ques. by same. What is his business?

Ans. A wagon maker, I believe.

Ques. by same. Does he carry on business for himself or does he work for others?

Ans. I suppose that he works as a journeyman.

Ques. by contestor. Where did he last reside previous to going to Bridgeport?

Ans. At Wooster, so far as I know, which is from report.

WM. FOOTE.

Also, William Collier, of lawful age, and being first duly sworn, on the 17th day of November, A. D. 1848, deposes and says:

I reside in Guilford township, Medina county, Ohio; am acquainted with George C. Baker, he came to Guilford some two years since, he rented a shop and carried on business for himself until about one year since, when he sold out his stock and went away, I think to Wooster, Wayne county, Ohio; he resided there a short time, some five or six weeks, cannot tell exactly; he went from Wooster to Brunswick I think, has been in Guilford frequently since, was there last spring some two weeks, has not done any business there.

Ques. by Contestee's Counsel. When was Baker at Guilford last, previous to the State Election and how long did he remain?

Ans. He was there immediately previous to the election some two days, and left on the morning after the election.

Ques. by same. Has not Baker been in the habit of making his home in Guilford when he has not been employed otherwheres?

Ans. He has frequently been in Guilford two or three days and went away again; do not know as he has called it his home there, he comes there probably oftener than otherwheres when out of business, having a brother there.

Ques. by same. Where did he go to on the morning after the election?

Ans. I understood he went to Bridgport, Wayne county.

Ques. by same. Was he not there several weeks during last winter and spring?

Ans. I do not recollect of his being there in the winter, but he was there in the spring, some weeks, two or three perhaps, and done some work to pay board for the man he boarded with.

Ques. by Contestor. Do you mean to state that Baker comes to Guilford oftener than other places, because he has a brother there?

Ans. I suppose he came there because he was acquainted, had friends and had formerly lived there.

Ques by same. What are his politics?

Ans. He is a democrat.

Ques. by Contestee's Counsel. How do you know that he is a democrat?

Ans. By conversations with him.

Ques. by same. When and where did you have such conversations with him?

Ans. One year ago last winter in Guilford, conversations were frequent and the subject of politics was as common as other subjects.

WM. COLLIER.

Also, Nelson H. Baker, of lawful age, and being first duly sworn, on the 17th day of November, A. D. 1848, deposes and says:

I reside in Guilford, Medina county, Ohio; I am acquainted with George C. Baker, he is a brother of mine, he opened a shop in Guilford about two years since; remained there nearly one year, perhaps not quite a year; I think he went from Guilford to Wooster, Wayne county, Ohio; at the time he left Guilford he sold out his lumber and unfinished work; he worked in Wooster about six weeks I think, and then went to Brunswick, Medina county, and remained there about two months; I do not know as he has had a permanent home since he left Guilford; he has come to Guilford when he has not been at work in other places.— I have been in Guilford about one half of the time, I should think for two or three years, but he did not make it a home with me, he generally stops at a public house when he comes to Guilford. He had been in Wooster, Wayne county, between two and three months I should think, immediately preceding the election, on the 10th of Oct. last; he came to Guilford the second Friday preceding the said election, and brought his trunk; he remained there two or three days, he went from there to Bridgport to his mother's, residing there I believe, at least he told me before he went that he was going there, and when he returned, either the Sunday or Monday before the said October election, he told me he had been there the day after the said election; I took him and his truck out to Bridgport, which had been left at Guilford,

from the time he came from Wooster until after the election; he remained at Bridgeport up to the present time, with the exception of two or three days that he was at said Guilford; he voted at the aforesaid State election at Guilford aforesaid; the question was asked him if he voted the democratic ticket at said election in my presence, his answer was: "I suppose I did," the question was asked him at the same time if he voted for James C. Johnson for representative to the State Legislature, his reply was, that "he did;" (objected to so far as the conversation of George C. Baker is given,) he belongs I suppose to the so called democratic party, he claims to belong to that party; my brother when he comes to Guilford, does not appear to have any business, except that he did a small job for Mr. Wilcox last spring, a man that he was boarding with. I saw him give his vote to the judges at said election; I was satisfied from a previous conversation and from the size and shape of the ballot, that he voted the democratic ticket.

Ques. by Contestee's Counsel. When your brother left Wooster and came to Guilford, about ten days before the election, had he finished his business there?

Ans. He had got through there when he left, as I supposed, and he so told me.

Ques. by same. State if you know, for what purpose he came to Guilford?

Ans. I think he stated at the polls, that he came there to vote.

Ques. by same. What farther did he state in regard to coming there?

Ans. I do not know what farther; do not recollect.

Ques. by same. Did not he state that he considered Guilford his home?

Ans. I believe that he made that statement.

Ques. by same. Was he not sworn, and the questions read to him from the Statute in reference to his residence, and did he not answer to them affirmatively?

Ans. He was sworn, questions were asked him by the judges; do not know whether they were read from the Statute or not; I do not recollect whether the questions were answered affirmatively or not, I do not recollect the questions either; could not say as to that.

Ques. by same. What was the question to which he answered, "that he came there to vote," and did the answer have reference to his coming to Guilford, or to the place of voting.

Ans. The question was, I think, "what did you come here for?" I understood the answer to refer to his coming to Guilford from Bridgeport.

Ques. by same. By whom was the question asked?

Ans. It is my impression that Isaac Bowers was the challenger, and the one that asked the question.

Ques. by same. For what purpose did he go to his mother's in Bridgeport before the election?

Ans. He said he was going to stay with her a few days.

Ques. by same. Does he not make his home wherever his business calls him, and when he is out of business return to Guilford?

Ans. He does generally make his home where his business calls him, and he does return to Guilford when out of business generally, as far as I have known.

Ques. by contestor. Does he not as frequently come to Guilford while he has business as he does when he has none?

Ans. I do not think he does as frequently; he has been there when he had business although not as frequently.

The examination of the above witness continued by contestee's counsel, by consent of parties.

Ques. Did you vote at the last State election, and if so for whom did you vote for representative to the State Legislature?

Ans. I did vote for James A. Bell.

Ques. by same. How long have you been a resident of this county?

Ans. Over one year.

Ques. by same. State what part of the time, the last three or four years, you have been absent from the State, where you were while absent, and when you last returned?

Ans. For the last three years I have been absent one half of the time, and for the year previous I was in this county. I was in Wabash county, State of Indiana. I returned in June last.

Ques. by same. For what purpose did you go there?

Ans. I first went, for the purpose of hunting and seeing the country. I stayed about two months; I returned and stayed through the winter in Guilford, Medina county, Ohio. I think I returned there again in the spring following, about the first of March. I think I returned to said Guilford in the summer, and went back and spent the winter. Then I returned to said Guilford for the purpose of starting business. Did not know how long I should stay—probably a year or two, and perhaps longer. I went back last fall on business, (did not go into business, as I anticipated, in Guilford,) but returned last fall, and have been there since, except that I was gone three or four weeks, last May, to Indiana.

Ques. by same. Did you enter land at the U. S. Land office while there, and at what time?

Ans. I did, on the 14th day of October, 1847.

Ques. by same. How did you enter it—by pre-emption right or otherwise?

Ans. By pre-emption right.

Ques. by same. Were you not required to produce proof that you were an actual resident on the land entered?

Ans. I was required to prove that I was residing on the land at the time of the passage of the bill granting pre-emption rights.

Ques. by same. Were you not also required to make proof that you were in actual possession of the land at the time of entering it?

Ans. Yes, sir, according to the provisions of the aforesaid act.

Ques. by same. State whether at any time while in Indiana you voted at an election?

Ans. I did, at the spring election—one year ago, last spring, I think it was.

Ques. by contestor. When you returned to Guilford, one year ago last June, did you return with the intention of going into business for an indefinite period, and perhaps for life?

Ans. I did return for the purpose of going into business for an indefinite period.

Ques. by same. Prior to your return with such intention, had you been residing on the land that you subsequently entered?

Ans. I had been residing on the land, made my home there; and was there most of the time.

Ques. by same. When you went from Guilford to Indiana, in August or September a year ago, did you go for a temporary purpose merely, with the intention of returning to Guilford?

Ans. I did.

Ques. by same. Have you resided and made your home in Guilford ever since you returned there a year ago last June?

Ans. I have.

Ques. by contestee's counsel. Is it not necessary to make proof by your own affidavit of the facts heretofore stated by you, and also that you have erected and occupied a dwelling house on the land, and also that you are the first and only actual settler thereon, at the time of entry, to entitle you to a pre-emption right?

Ans. The occupant at the time of the passage of the bill is entitled to the benefits of a pre-emption right, provided no other person claims a pre-occupancy or contests the claim, an individual has to take another person with him, and both make an affidavit that he was in actual possession at the time of the passage of the law, and that at the time he has not abandoned it.

The above objected to by contestor.

Ques. by same. Did you not, when you last left Guilford to go to Indiana, intend to remain there, and make your arrangements accordingly, and did you not state to one Elias Harris and others that such was your intention?

Ans. I did not. I have no recollection of making such a statement.

Ques. by same. Did you make such statement at the time next before the last, or any other time?

Ans. I did not, the last time but one, and do not recollect of doing so at any other time.

Ques. by same. Did you go to Indiana last spring, when did you return, and what was your intention when you left Guilford?

Ans. I did go to Indiana, I think the fore part of May last. I was gone from Guilford between 3 and 4 weeks, I think. I had agreed to return and go into business with three men in Guilford in June.

Ques. by same. Did not said Harris request you to transact some business for him in Indiana, and did you not decline doing so for the reason that you thought that you should not return to Guilford?

Ans. I think he sent some word by me, and I guess that was the extent of the business, and do not think I declined doing so.

Ques. by contestor. Have you a family?

Ans. I have none.

Ques. by same. Was not your brother-in-law in possession of the land alluded to under your right, one year ago last spring ? and has he not remained in the occupancy ever since ? and have you not since acquired the right of soil of the land, and have you not been ever since in possession and occupancy by your brother-in-law ?

Ans. He was, as lessee, and has remained in the occupancy ever since. I have since acquired the right of soil, and remained in possession through my brother-in-law.

NELSON H. BAKER.

To the Honorable, the Speaker of the House of Representatives of Ohio :

We, Barney Prentiss, of Montville township, and Joseph Ross, of Guilford township, both of Medina county, Ohio, do hereby certify that the above named witnesses, to wit : John Hewitt, Albert Bates, Arza Pearson, Charles Fenn, John Barnaby, David Ransom, Charles Castle, Henry P. Camp, Joseph Mantz, Dyer J. Perkins, Henry P. Howd, Leman S. Beckwith, Joseph Fitch, John Frank, Isaac S. Powers, Selden B. Welton, Riley F. Warner, Charles Sabin, Mason Terrill, Moses Terrill, John B. Tyler, Jonathan Fitz, Henry Ainsworth, Reuben Dewey, Lafayette Hard, William Foot, William Collier, and Nelson H. Baker, were by us first duly sworn to tell the truth, the whole truth, and nothing but the truth, and that the foregoing depositions by them respectively subscribed, were reduced to writing by one of us ; and that said depositions were severally taken on the days and at the place specified in the inclosed notice, and agreeably thereto, in the presence of said parties themselves, or their attorneys, and that the copies of the poll books for the townships of Spencer, Homer, Guilford, Liverpool and Wadsworth, in Medina county, Ohio, together with the abstract of votes in the several townships, and for the county and State aforesaid, and all duly certified to by the clerk of said county, were also delivered to us in presence of the parties aforesaid, to be inclosed with the foregoing depositions.

In testimony whereof we have hereunto set our hands and seals, this twenty-eighth day of November, A. D. 1848.

B. PRENTISS, J. P. [SEAL]

JOSEPH ROSS, J. P. [SEAL]

[No. 1.]

COPY OF POLL BOOK of the election held in Granger, Medina county, Ohio, on the 10th day of October, A. D. 1848; William Paull, Henry Ingraham; and Wilder M. Coddington, Judges, and Flavius J. Wheatly and Ira M. Lawrence clerks of said election, were sworn as the law directs, previous to their entering on the duties of their respective offices.

Number and Names of Electors.	Number and Names of Electors.
1 John Coddington	37 Wm H Wilder
2 Joseph Vanorman	38 Richard Bishop
3 Harmon Hickox	39 Henry C Welton
4 Tracy H. Hills	40 Joseph Hickox
5 Stacy Hills	41 Edward Shelden
6 E L Hills	42 Friend Ingraham
7 David S Baker	43 Xemanthus Allen
8 Francis Young	44 David Aikman
9 Wm P Sayre	45 Daniel Chrisman
10 Joel W Vanorman	46 William McKnight
11 Wilder M Coddington	47 G W Tubbs
12 Lyman Hemenway	48 H N Hills
13 Mathew Alger	49 Reuben G Hosman
14 Warren H Coddington	50 Seymour J Welton
15 David Moon	51 Isaac R Low
16 Matthew Newton	52 Robert Green
17 David Shelden	53 Ezra E Huntley
18 William Paull	54 Wm A Huntley
19 Daniel Sartwell Jr	55 Morris Lamb
20 Lewis E Turner	56 Simon Kittle
21 Benjamin Low 1st	57 Jeremiah Tremm
22 U H Chapman	58 Nathaniel Spencer
23 G W Tyler	59 John N Ganyard
24 Henry Baxter	60 A J Straight
25 Samuel McEmery	61 George Worden
26 Isaac Wolley	62 H S Ingraham
27 Stanislaus Abbot	63 John Phelps
28 Samuel Woolley	64 Nathan M Huntley
29 Reuben Willey	65 Amos Barber
30 David Woolley	66 Samuel Mott
31 Wm Crane Jr	67 Joseph Wolcott
32 Eden E Johnson	68 Samuel Robinson
33 Ira M Lawrence	69 Cama R Spencer
34 Wm H Straight	70 Wm F Burt
35 Joshua Goodrich	71 Spencer F Coddington
36 Giles Hickox	72 A S Goodrich

POLL BOOK OF GRANGER—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
73 J U Vanorman	116 James Lee
74 William King Jr	117 Jacob Woodley
75 George Waffle	118 S P Wolcott
76 John Waffle	119 Alba Stimpson
77 Elisha P Seymour	120 Robert Young
78 Nathan Benedict	121 Samuel M Thayer
79 Reuben McFarlin	122 Mina Chatfield
80 Oliver Vanorman	123 J S Smedley
81 John W Turner	124 Ira Crosby
82 Sanford Moon	125 Solomon G. Newton
83 Jacob Dunkle	126 Harry Perkins
84 John Treman	127 Alfred Welton
85 Geo M Codding	128 Joseph Johnson
86 L McIntire	129 J L Drake
87 Lemuel McIntyre	130 Samuel McCloud
88 A S Chase	131 Harris Reid
89 Isaac Best	132 Geo H Hickox
90 H M Lockhart	133 James Ganyard
91 Calvin H Wilder	134 Seth Goodwin
92 Thos Spencer	135 Wm F Davis
93 Myron C Codding	136 Harvey Webster
94 F J Hicks	137 Seth Dye
95 Hiram Low	138 J C Botsford
96 Charles Dunkle	139 D Alson Burt
97 Josiah M Fuller	140 Wm H Baker
98 Edward B Low	141 A F Bogardis
99 Jesse H Smith	142 Peter Brown
100 Elizur Wolcott	143 George Woodley
101 Charles Welton	144 Edward Triffit
102 Wm Spencer	145 Moses Moon
103 Chauncey Baker	146 Orr Tousley
104 George Woodley Jr	147 Wm B Baker
105 Leonard W Huntley	148 Henry Dean
106 Alexander Richardson	149 J A Codding
107 John S Hatch	150 John Conrad
108 J C Brainard	151 F J Wheatley
109 Riley Chapman	152 Michael Mawn
110 Wells Allen	153 Stephen Jones
111 George H Hatch	154 James Ostrander
112 Moses Miller	155 Ezekiel Huntley
113 John Reese	156 John Woodley
114 Anthony Low	157 A A Treat
115 George Adair	158 Hugh Clement

POLL BOOK OF GRANGER—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
159 Heman Willey	179 James Tierman
160 J S Clements	180 Benjamin Burt
161 Albert Kittle	181 Clement Willey
162 Rufus Rockwood	182 Russel Jones
163 Peter Strunk	183 Abraham Link
164 Cyrus Briggs	184 A H Richardson
165 Hiram Hatch	185 Drayton M Curtis
166 John Hatch	186 John B Young
167 F W Cone	187 Wm Eglin
168 Alfred Warner	188 Thos Eglin
169 George Best	189 A R Brown
170 Uriah Briggs	190 O S Clements
171 James Vanorman	191 Levi Bissel
172 Benjamin E Low 2d	192 Isaac T Powers
173 Wm Wilder	193 Henry Ingraham
174 Danford Mills	194 Sam W Eastman
175 George Turner	195 Francis Sylvester
176 G B Simmons	196 Joseph B Clark
177 L J Mix	197 George Gardner
178 Henry Sylvester	198 Heman Miller

It is hereby certified that the number of electors at this election amounts to one hundred and ninety-eight.

WILLIAM PAULL, } *Judges*
HENRY INGRAHAM, } *of*
W. M. CODDING, } *Election.*

F. S. WHEATLEY, } *Clerks.*
IRA M. LAWRENCE, }

We do certify that Seabury Ford had 198 votes for Governor ; John B. Weller had 49 votes for Governor. Joseph M. Root had 149 votes for Congress ; Ezra M. Stone had 49 votes for Congress. Harrison G. Blake had 142 votes for Senator ; Hiram Thompson had 49 votes for Senator. James A. Bell had 145 votes for Representative ; James C. Johnson had 49 votes for Representative. Allen R. Burr had 141 votes for sheriff ; Wm. T. Welling had 51 votes for Sheriff. Samuel H. Bradley had 149 votes for Auditor ; Norman Curtis had 44 votes for Auditor. Samuel J. Hayslip had 142 votes for Recorder ; Silas Judson had 50 votes for Recorder. Stephen C. Oviatt had 124 votes for Commissioner , Francis Young had 54 votes for Commissioner.

Lewis C. Chatfield had 142 votes for Coroner ; Robert Carr had 50 votes for Coroner.

WILLIAM PAULL, } *Judges*
HENRY INGRAHAM, } *of*
W. M. CODDING, } *Election*

F. J. WHEATLEY, } *Clerks.*
IRA M. LAWRENCE, }

I hereby certify that the within is a true copy of the Poll Book of the Election held in Granger, Medina county, Ohio, on the 10th day of October, A. D. 1848.

FLAVIUS J. WHEATLEY, *Tp. Clerk.*
Granger, November 21, 1848.

The within was the paper presented by Flavius J. Wheatley, and referred to in his deposition ; marked "No. 1."

B. PRENTISS, J. P.
JOSEPH ROSS, J. P.

[No. 3.]

POLL-BOOK of the election held in the township of Homer, in the county of Medina, on the 10th day of October, A. D., 1848. Elias Garman, Darius Tanner, and Daniel Schnebly, judges, and Robert Mahan and Dyer J. Perkins, clerks of said election, were severally sworn previous to their entering on the duties of their respective offices.

Number and Names of Electors.	Number and Names of Electors.
1 Kelyon Homel	35 A Bingham
2 George Fryman	36 E Wing
3 L Tuttle	37 S Crosby
4 Michael Coner	38 J Shotts
5 H Stewart	39 John Dierdoff
6 R Gray	40 T Barkey
7 C Smith	41 Jacob Kesler
8 J Bear	42 M Kesler
9 B Gresinger	43 P Kesler
10 R Mahan, sen.	44 Stephen Smith
11 Jacob Kesler, sen.	45 S Vanderhoff
12 J Cross	46 R McAlister
13 B Garman	47 B Vandermark
14 J Haines	48 J P Miner
15 J Miller, sen.	49 A Crow
16 A Bear	50 J H Perkins
17 J Douglass	51 S Giar
18 William Finley	52 D Hedenger
19 J Crawford	53 T Keeny
20 J Bartsha	54 H Giar
21 J E Vanderhoof	55 John Lynn
22 H Laughman	56 S Miller
23 J Kelley	57 George Manta
24 C Kuntz	58 E G Miner
25 E Kelley	59 C Plotmer
26 A Kelley	60 George Libey
27 G Drick	61 Jacob Gault
28 C Ranick	62 S Raric
29 A McDaniel	63 H Bason
30 R Bevelhamann	64 John Berom
31 D Raric, sen.	65 Isaac Hoffman
32 Solomon Smith	66 Jacob Barnes
33 R Ranic	67 S Albro
34 William Ranic	68 D Raric

POLL BOOK OF HOMER — *Continued.*

Number and Names of Electors.	Number and Names of Electors.
69 William Miller	113 H Reynolds
70 J A Kuntz	114 B Reynolds
71 H Zamer	115 William B Smith
72 George Miller	116 F French
73 J Rowler	117 S Stine
74 H S Rowler	118 James Albro
75 P Mantz	119 G Wikle
76 J Zamer	120 Alfred Miller
77 H Tousler	121 George Lynn
78 John Park	122 S Sanders
79 J Stittle	123 Joseph Deerdorf
80 M Kuntz	124 Jesse Ragle
81 B Gooff	125 G Mozer
82 Uriah McDaniels	126 G Kelley
83 M Rex	127 James McAlister
84 J Stevenson	128 H Beeman
85 D Kesler	129 D Tousler, jr.
86 M Campbell	130 J Stine
87 J Tanner	131 S Libey
88 David Williams	132 H McFaren
89 Jacob Donner	133 D Wright
90 — Frimart	134 G Reiley
91 A Wetterstine	135 Henry Riger
92 M Shafer	136 J Hibbard
93 J Deager	137 E Rose
94 L Gott	138 A Rowler
95 S Freeman	139 J Park
96 M Berone	140 J Lytle
97 J Mantz	141 J Mahan
98 Augustus McDaniel	142 John Barnes
99 A Harbaugh	143 G Ragle
100 J Snider	144 Harrison Miller
101 John Stein	145 D Williams
102 William Cotton	146 D Schnebly
103 George Albro	147 J Moyn
104 D Tanner	148 D Fronk
105 A W Hartman	149 J McDaniel
106 A Smith	150 William Rex
107 M Berman	151 J Babcock
108 Thomas Ager	152 Robert Mahan
109 P Snyder	153 E Garman
110 David Tanner	154 D J Perkins
111 J Hopkins	155 D Clause
112 A Berone	156 J Nosle

POLL BOOK OF HOMER— *Continued.*

Number and Names of Electors.	Number and Names of Electors.
157 Skene Low	161 J Oberlin
158 W Mahan	162 H Camp
159 E N Skinner	163 A. Oberlin
160 William Oberlin	164 J C Hull

• We do hereby certify the number of votes polled at this election amounts to one hundred and sixty-four.

DANIEL SCHNEBLY,
DARIUS TANNER,
ELIAS GARMAN, } *Judges:*

D. J. PERKINS, }
ROBERT MAHAN, } *Clerks.*

State of Ohio, Medina County, ss.

I, Edward L. Warner, Clerk of the Court of Common Pleas of the county and State aforesaid, do hereby certify that the foregoing is a true copy of the poll book of the general election for State and county officers, held in the township of Homer on the 10th day of October, 1848, as returned to the office of the Clerk of said Court, and now on file in this office.

In testimony whereof I hereunto set my hand and affix the seal of said county of Medina, the 9th day of November, A. D., 1848.

E. L. WARNER, *Clerk.*

By O. S. CODDING, *Deputy.*

POLL BOOK of the election held in the township of Guilford, county of Medina, on the 10th day of October, in the year of our Lord one thousand eight hundred and forty-eight. John Coolman, Samuel Miller and Joseph Ross, Judges, and John Frank and James M. Ross, Clerks of said election, were severally sworn as the law directs, previous to their entering on the duties of their respective offices.

Number and Names of Electors.	Number and Names of Electors.
1 James Dean	38 David Parsons
2 Clark Hoisington	39 George Baker (sworn)
3 Nathaniel Gray	40 Isaiah Hatfield
4 G W B Morgan	41 George Derland
5 Suel Colborn	42 Wm Lee
6 Philip Houser	43 Shubal Porter
7 Daniel Wilcott	44 Jacob Brown
8 John Dickey	45 Nathan High
9 Jesse Ross	46 John M. Huffman
10 S S Hastings	47 Edward Kelling
11 John Shearer	48 David Wilson
12 F W Graves	49 Nelson Case
13 Frederick Albert	50 John Coolman
14 John Norton	51 Jacob Hatfield
15 Jas Elder	52 Samuel Miller
16 E G Dorsey	53 Charles Heckerthorn
17 Charles Pameter	54 Levi Nye
18 David Norton	55 James Caughey
19 Andrew Nelson	56 Julius Easton
20 Charles Westerman	57 Chancy Spear
21 Peter Stough	58 D D Dowd
22 Henry Hosmer	59 Milton Stiles
23 Justus Graves	60 J S Powers
24 E W Harris	61 Jacob Bell
25 L B Hikox	62 Jas Fredric
26 P B Dowd	63 John Wilson
27 Wm Colier	64 Ansel Graves
28 Echabod Sanders	65 Hiram Rhodes
29 J. P Smith	66 James Treat
30 Jas Overholt	67 Jas Ross
31 Aaron Durhammer	68 Joseph Nicolas
32 Abram Houtz	69 Franklin Litsel (sworn)
33 CP Stough	70 Jas Kulp
34 James M Elder	71 Earl Norton
35 Henry Walker	72 Wm Caughey
36 Wm Hosmer	73 James M. Ross
37 Samuel D. Koppis	74 Wm Wilson

POLL BOOK OF GUILFORD—Continued.

Number and Names of Electors.	Number and Names of Electors.
75 John O'Connell	118 John Huffman
76 Thomas O'Connell	119 David Fraser
77 John Leland	120 Arad Radway
78 Cornelius Welch	121 Chester Hosmer
79 Michael O'Connell	122 Andrew Baughtman
80 Jacob Heckerthorn	123 Charles West
81 Samuel Canfield	124 Wm Steward
82 John Kulp	125 Isaac Gray
83 N W Ellis	126 Ephraim Briggs
84 Fredrick Green	127 Jacob Wideman
85 Varnean Noyes	128 Adam Huffman
86 Samuel C. Green	129 Frederick Wolf
87 John Koppis	130 H H Dowd
88 Amos Hannahett	131 Reuben Durhaine
89 Wm Colborn	132 George Halliwell
90 Samuel Ouble	133 Benj Q Strong
91 Daniel Johnson	134 Wm L Stokes
92 Charles Wright	135 John P Johnson
93 Abram Gray	136 Edward P Youker
94 Sidney Heistins	137 John Montgomery
95 David Gray	138 Jacob Shook
96 David Treat	139 John Waterman
97 Alva Cook	140 Henry Wideman
98 John Bekey	141 Christian Wilhelm
99 Columbus Chapman	142 Solomon Rhoads
100 W W Winters jr	143 Almond Holcomb
101 Alexander Wilson	144 E C Benton
102 Nathaniel Eastman	145 Peter Huginer
103 Peter Richard	146 Jacob Moor
104 James Halliwell	147 Andrew Rhoads
105 Sam Rhodes	148 Jacob Ouble
106 W W Winters	149 George Treat
107 L W Strong	150 Abram Overholt
108 Nathan Buman	151 Geerdin Woodruff
109 John Cannon	152 Joseph Halliwell
110 Elias Rhodes jr	153 Michael Devan
111 Andrew McNutt	154 James C Stokes
112 John Rysinger	155 Nathan H Baker
113 Andrew Drown	156 Jacob Wideman jun
114 Albert Cook	157 Jacob Hatfield sen
115 Martin Letherman	158 Wm Hutchinson
116 Jacob Miller	159 Lyman Munson
117 James T Wilson	160 Samuel Rhoads

POLL BOOK OF GUILFORD—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
161 Amos Fritts	204 Edward Rhoads
162 James Nelson	205 Jacob Kulp
163 Peter Abbott	206 John Eggleston
164 L L Richards	207 Nathaniel Gray
165 Asel C Dean	208 James Bell
166 Wm Green	209 Claudius Hay
167 Alexander Whiteside	210 Andrew N Taylor
168 Joseph Devan	211 Ezekiel Konkey
169 B F Warren	212 Daniel Markley
170 Samuel Buckingham	213 George Betser
171 Albert Leland	214 Samuel Shields
172 Wm Greenwood	215 Wm Dix
173 Henry Albro	216 Jacob Kendch
174 John Harris	217 Thomas Hunter
175 Joseph Cutler	218 H F Shedon
176 Michael Dennis	219 David Huginer
177 Alfred Green	220 Aaron Walker
178 John W Hutchinson	221 James Mongold
179 Isaac Munson	222 Reuben Case
180 Clinton Walters	223 Hilreck Mongold
181 George Cutler	224 Jacob Mongold
182 Elias Rhoads 1st	225 George Harper
183 Aaron Leland	226 George W Cook
184 Joseph Landes	227 Henry Overholt
185 Silas F Hastings	228 Jacob Rhorer
186 John S Harris	229 Wm Gambal
187 Henry Ault	230 David Koppis
188 David Coolman	231 James Huffman
189 Wm Strunk	232 Henry Rhinebolt
190 Asel M. Dean	233 B F Parmenton
191 Luther Dodge	234 James Miles
192 John Stiles	235 Henry Ellsworth
193 John Beekler	236 Henry Lee 2d
194 Jesse Rhoads	237 Jesse Smith
195 Andrew Gray	238 Elias Harris
196 Andrew Jakely	239 Abram Closs
197 Philip Fritts	240 Rush Miller
198 Lewis Case	241 Nicholas Murphy
199 Jas Coolman	242 Mannen Blanchard
200 Thomas Colbern	243 Cyrel Eddy
201 Richard Heath	244 Isaac Bartholomy
202 Simon Essig	245 John Riggelman
203 Ralph Robinson	246 Albert Blanchard

POLL BOOK OF GUILFORD—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
247 Joseph Markley	290 John Cannon
248 Abram Reich	291 John Ream
249 Isaac L Rice	292 David Yost
250 Nathan Cork	293 Henry D Martin
251 John S Fulton	294 Thomas Gill
252 A B Paddleford	295 Abram D Coppis
253 A W Dipkey	296 Sam Naragang
254 Joseph Slabaugh	297 Uriah Patterson
255 Jacob Koppis	298 Michael Acre
256 Wm Uhler	299 James A Bell
257 Joseph Eastwood	300 Isaac Parsons
258 John Long	301 Solomon Weaver
259 Jacob Wideman 2d	302 S Hudson
260 Joseph Wideman	303 John Daniels
261 Jacob Letherman	304 G L Daniels
262 Abner Barnard	305 Wm Hare
263 Isaac Kulp	306 Thomas Primbee
264 David Kulp	307 Jacob Means
265 John Wediman	308 Ansel H Hanchett
266 John Clows	309 George Shook
267 Charles Hay	310 Robert Whiteside
268 O H Martin	311 Ransel Blanchard
269 Daniel Coolman	312 David Shook
270 James Whiteside	313 Lucius Easton
271 Peter Walters	314 Jonas Ouglemyre
272 Jacob Fritz	315 Thomas Whiteside
273 Jesse Heath	316 Thomas Lee
274 Isaac Cannon	317 Wm Crawford
275 Wm Walters	318 Manuel Durham
276 Elias Rhoads 2d	319 Henry Lee 1st
277 John Coppis	320 James Crawford
278 David Rhorer	321 Elisha Hayes
279 Wm Phelps	322 Simon Snyder
280 John Chambers	323 John Frank
281 Wm Chambers	324 James E Barnard
282 Henry Dennis	325 John Halliwell
283 Aaron Betts	326 Josiah Crawford
284 Wm Shook	327 Dan Kreders
285 Wm Rice	328 Griffin Johnson
286 Jacob Harter	329 Martin Gates
287 Jacob Graver	330 James Easton
288 David R Resler	331 F E Cook
289 James C. Johnson	332 John Cook

POLL BOOK OF GUILFORD--Continued.

Number and Names of Electors.	Number and Names of Electors.
333 George Durhammer	336 Cyrus Wetherby
334 Robert Mull	337 Abram Letherman
335 Robert Saggi	

It is hereby certified that the number of electors at this election amounts to 337 votes.

Attest :
 JOHN FRANK, }
 JAMES M. ROSS. } *Clerks.*

JOHN COOLMAN, } *Judges*
 SAMUEL MILLER, } *of*
 JOSEPH ROSS. } *Election.*

The State of Ohio, Medina County, ss.

I, Edward L. Warner, Clerk of the Court of Common Pleas of the County and State aforesaid, do hereby certify that the foregoing is a true copy of the Poll Book of general election for State and County officers held in the township of Guilford, on the 10th day of October, A. D. 1848, as returned to the office of the Clerk of said Court, and now on file in this office.

In testimony whereof I hereunto set my hand and affix the seal of said court, at Medina, the 27th day of November, A. D. 1848.

E. L. WARNER, *Clerk,*
 By O. S. Conning, *Dept.*

POLL BOOK of an election held in Spencer township, in the county of Medina, on the 10th day of October, in the year of our Lord, one thousand eight hundred and forty-eight. John Reed, Simon Metzger and Henry H. Curtiss, were Judges, and Charles Daugherty and H. G. W. Humaston, Clerks of said election, were severally sworn as the law directs, previous to entering upon the duties of their respective offices.

Number and Names of Electors.	Number and Names of Electors.
1 Edwin W Haughton	38 Vestim Hunt
2 Dennis Driskell	39 George Benford
3 John Weaver	40 Joseph Gear
4 Ambros P Cook	41 Sanford F Kast
5 Job Inman	42 Walter B Clark
6 John L Ransom	43 Ichabod Stedman
7 Samuel Sooy	44 Alvah Allen
8 Sanford Brown	45 Sylvester Peabody
9 Benjamin G Reed	46 David Inman
10 Joshua Wood	47 Samuel Allen
11 William Daugherty	48 John C Goodman
12 William Watts	49 Seth Baughman
13 Emanuel Okely	50 Henry Warner
14 Sherman B Ransom	51 Joseph Gannett
15 Jonathan Sooy	52 Freeman Lothrop
16 James Sooy	53 Asa W Haughton
17 Zephaniah Okely	54 Erastus Cook
18 Mark L Warner	55 Andrew Hacon
19 Samuel Sooy jr	56 Asa Houghton
20 Alfred Driskell	57 Charles Bissett
21 Harvey H Kilborn	58 Jared Wells
22 William Allen	59 Joseph Wells
23 Henry Miers	60 William Green
24 Franklin Lewis	61 Abraham J Clark
25 Lewis Benway	62 Lyman C Daugherty
26 Jacob H Welsber	63 John Space
27 Allen Steele	64 Jephtha Reed
28 Lewis Baldwin	65 Jacob Smith
29 J H Coleman	66 Alvin W Gannett
30 Joel Curtice	67 Elisha Allen
31 Hiram Stewart	68 Daniel Rush
32 Nicholas Wood	69 Nelson Stedman
33 Henry C Harrias	70 Jacob Haines
34 Moses Harrias	71 V W Parent
35 Eli Denman	72 Ashby Burt
36 Michael Wise	73 George Stroup
37 Peter Colbetzer	74 Jeremiah Newton

POLL BOOK OF SPENCER—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
75 Benjamin Lewis	118 John D Haines
76 Milton Stiles	119 Martin Walters
77 E D Wright	120 Isaac Inman
78 Libeus Graves	121 Eben T Vanantwerp
79 Charles Smith	122 David Bizzan
80 George Pirce	123 J R Daugherty
81 William G Brewster	124 John Ward
82 Chester Martin	125 Stephen Inman
83 Noah Sooy	126 Martin Chapman
84 Ira Cole	127 James Hendee
85 Nath R Marsh	128 William E Sooy
86 John Driskell	129 John Hawn
87 David Frymon	130 Cyrus Hall
88 Ephraim Darling	131 Benjamin Sooy
89 J H Smith	132 George Norton
90 Stephen Smith	133 Peter Rice
91 Sheebel Smith	134 Frederick Rico
92 Valentine Michae	135 Benjamin Parent
93 James Clark	136 Nathaniel Daugherty
94 Taylor Driskell	137 John G Fisher
95 Henry H Curtiss	138 Henry Wilcox
96 John Stroup	139 Jairus Cross
97 Jackson Stroup	140 D D Leviatt
98 Gresham Bissett	141 Samuel Inman
99 Charles Daugherty	142 C C Ambler
100 John Erskine	143 Peter Bailey
101 William H Salisbury	144 Joseph M Smith
102 William Parent	145 John O Marsh
103 John Reed	146 Philip Space
104 William W Parent	147 Joseph Okely
105 Simon Metzger	148 William H Smith
106 Erastus Egleston	149 John T Peck
107 Isaac Betts	150 Lorenzo D Smith
108 Joseph Swinehart	151 Hezekiah Parent
109 Martin Gandeo	152 Abel Wood
110 Henry D Wood	153 Isaac Rodgers
111 Philip Bizzaro	154 William Davis
112 H G W Humaston	155 George W Houghton
113 Heman Robb	156 Solomon F Dimicks
114 Chas H Salisbury	157 L L Leviatt
115 A B Stroud	158 Nathan Marsh
116 Hugh Driskell	159 Jacob Alberta
117 L D Reynolds	

It is hereby certified that the number of electors at this election amounts to one hundred and fifty-nine.

JOHN REED,
HENRY H. CURTIS, } Judges.
SIMON METZKER, }

CHARLES DAUGHERTY, } Clerks.
H. G. W. HUMASTON, }

The State of Ohio, Medina County, ss.

I, Edward L. Warner, Clerk of the Court of Common Pleas of the county and state aforesaid, do hereby certify that the foregoing is a true copy of the Poll Book of the general election for state and county officers, held in the township of Spencer, on the 10th day of October, 1848, as returned to the office of the Clerk of the Court of Common Pleas, and now on file in this office.

In testimony whereof I hereunto set my hand and affix the seal of said court, at Medina, the 8th day of November, A. D., 1848.

E. L. WARNER, Clerk.

POLL BOOK of the election held in the township of Wadsworth, in the county of Medina, on the tenth day of October, in the year of our Lord one thousand eight hundred and forty eight, Orlando Beach, John Wall and Jacob Wright, judges, and Augustus Pardee and Luther D. Robbins clerks of said election, were severally sworn as the law directs previous to their entering on the duties of their respective offices.

Number and Names of Electors.	Number and Names of Electors.
1 John P Dimock	38 John Baughman
2 Jacob Wright	39 Daniel Snyder
3 Henry Willard	40 Elbridge G Hard
4 Wm Overholt	41 O Beach
5 John Dyer	42 Shubal Whitney
6 Richard Hubbell	43 H C Kingsbury
7 David Ettinger	44 A Grotz
8 Sam'l Brown	45 Aaron Miller
9 Robert Garbult	46 Henry Johnson
10 Abram Hard	47 R Baughman
11 H G Folger	48 Geo Lyman
12 John Otto	49 S Blocker
13 Jonas Long	50 Wm Johnston
14 Wm Brouse	51 G H Dewey
15 Jonathan Welcher	52 David Holbur
16 Lafayette Hard	53 Ang Pardee
17 Ephraim Wright	54 Thos Wise
18 Solomon Bliler	55 Michael Hayes
19 Geo Beach, Jr	56 Jesse Purcell
20 John Lawrence	57 Henry Traver
21 Leroy Beach	58 L H Hard
22 John Traver	59 Samuel Bowdar
23 Peter Traver	60 David Parker
24 Murty Cennady	61 Alfred Shaw
25 C P Smith	62 H A Mills
26 Charles Hartley	63 Jonathan Everhard
27 N Long Jr	64 Joseph Long
28 John Warren	65 John Everhard
29 Geo Rasor	66 Allen Pardee
30 C Hard	67 Nicholas Long
31 M Willey	68 Tobias Krider
32 Williard Mills	69 Sam'l P Stephens
33 Erastus Brown	70 B M Corkle
34 Sol Develpese	71 C N Lyman
35 Geo Kingsbury	72 H G Dodge
36 Daniel Foster	73 Matthew Taggart
37 S Loomis	74 Benjamin Gunsales

POLL BOOK OF WADSWORTH—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
75 Ellener Warner	118 John Rasor
76 H Plew	119 Erasmus Beach
77 James Homan	120 Michael Deng
78 David Bunnell	121 Stephen Kindall
79 John Yeekey	122 Adam Everhard
80 G K K Pardee	123 Adam Smith
81 Sam'l Wats	124 Wm Beach
82 Wm Overholt	125 Kilean Naple
83 Charles Dyer	126 C C Mills
84 Simon Waltz	127 John Pardee
85 John Leatherman	128 Abram Frayman
86 Daniel Waltz	129 Asor Mills
87 Levi Blakesley	130 Philo P Mills
88 A C Biok	131 Sam'l Hahn
89 Adam Long	132 Daniel Peters
90 Charles Nixon	133 Riley Lampson
91 Wm Tarry	134 Christopher Tiller
92 Wm Phelps	135 Wm Eyles
93 David Colpetts	136 L P Mills
94 L D Robbins	137 Peter Lamb
95 C R Sprague	138 T S Bennett
96 E G Loomis	139 Henry Shutt
97 James Benstner	140 Dan Shutt
98 John Wall	141 Nicholas Long Sr
99 John Glasgow	142 Elias Bogar
100 Chancey Hart	143 Peter Hartman Sr
101 Henry Yeekey	144 David Wise
102 Isaac Overholt	145 Elias Bliler
103 Jacob Long Sr	146 Jesse Everhard
104 Abel Beach	147 Wm Rasor
105 Abram Shaffer	148 Frederic Rasor
106 Benj Dean	149 Owen Hartman
107 Jacob Burkman	150 Benj Tyler Sr
108 Wm Arrowsmith	151 Luke Rockwood
109 Jacob Bergy	152 Norman Doolittle
110 Darius Miller	153 Jonas Baughman
111 Jacob Geiger	154 Asa B Edwards
112 Fred Rasor	155 Caleb Battles
113 Geo Traver	156 E D Thompson
114 Jacob Howa	157 Daniel Smith
115 Alexander Turner	158 Emanuel Everhard
116 Aaron Pardee	159 M Mattison
117 Christian Wall	160 Philo Welton

POLL BOOK OF WADSWORTH—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
161 William Leach	204 Christopher Razor
162 Joseph Lomis	205 Solon Rodebaugh
163 Peter Sharp	206 Philip Smith
164 John Scott	207 William Rodebaugh
165 Eli Shank	208 Richard Clark
166 Jacob Miller	209 David Gunsolas
167 John Nesmith	210 Wm F Boyer
168 Rufus Austin	211 Richard Parker
169 Jacob Shutt	212 Franklin Phelps
170 L D Russell	213 Cornade Snyder
171 B B Warner	214 J M Beach
172 Wm Simcox	215 Geo Reasoner
173 John Mills	216 Charles Curtis
174 Benj Bowdar	217 Wm M Eyles
175 Reub Warner	218 Milton Kelly Jr.
176 Benj Stine	219 Sofnias Clark
177 Fred Aldinger	220 Joseph Bolick
178 Sanford Filch	221 Chris Peters
179 Henry Hineby	222 H Dieter
180 Geo Fitch	223 Talbert Simcox
181 Jacob Shaff	224 James Spillman
182 Orson Dean	225 Tertibus Brewster
183 Henry Stevens	226 Orrin Worden
184 Rufus Smith	227 Stanton Bennett
185 Reuben Stevens	228 John Shank
186 John R Long	229 Elias Myers
187 Chris Auble	230 Roswell Aldrich
188 Levi Auble	231 Elias Beakman
189 Jonathan Borgan	232 David Kulp
190 David Baughman	233 Chas Humphrey
191 Abel Dickinson	234 Joseph Auble
192 Geo Miller	235 William Daily
193 Thos Nestmith	236 John Spillman
194 Wm M Galliard	237 Wm T Hurlburt
195 Smith Rude	238 Sam'l McCoy
196 Geo Willey	239 Jas Walts
197 Jonathan Bliler	240 Benj Baker
198 John H Hart	241 Abram Bergy
199 E Wellman	242 Albert Hinsdale
200 Elizur Nos	243 James Newcomb
201 Henry Briggs	244 Jacob Razor
202 Levi Baughman	245 Geo Baughman
203 Valentine Nice	246 Joseph Tyler

POLL BOOK OF WADSWORTH—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
247 Jonas Slutter	268 David Boger
248 J M Snell	269 Franklin Bell
249 Robert M Coy	270 Wm Coggsweil
250 Oliver Hiliard	271 J N M Galliard
251 Henry Means	272 John Razor
252 Freeman Briggs	273 Jacob Rasor
253 Jacob Rensiner	274 Matthias Smith
254 Joseph Gleim	275 John Galentine
255 Abram Vanorsdall	276 John M Coy
256 Nicholas Colbetzer	277 Chas Kimkler
257 Sam Nodle	278 Cyrus Curtis
258 Israel Ritter	279 Redmond Monroe
259 Henry Nash	280 Andrew Warner
260 Elias Holbar	281 Andrew Boyer
261 Jefferson Gifford	282 Abram Overholt
262 David Long	283 Daniel Waterman
263 Daniel Boger	284 Peter Hartman
264 Uriah Heckler	285 Chas Castle
265 John H Howa	286 Liberus Allen
266 Chas Rohn	287 James Turner
267 Daniel Fryman	

It is hereby certified that the number of electors at this election amounts to Two hundred and eighty-seven.

JACOB WRIGHT,
ORLANDO BEACH, } *Judges.*
JOHN WALL,

Attest: AUG. PARDEE, } *Clerks.*
L. D. ROBBINS,

The State of Ohio,, Medina county, ss.

I, Edward L. Warner, clerk of the court of common pleas of the county and State aforesaid, do hereby certify that the foregoing is a true copy of the Poll Book of the general election for State and county officers, held in the township of Wadsworth, in said county, on the tenth day of October, 1848, as returned to the office of the clerk of the court of common pleas, and now on file in this office.

In testimony whereof I hereunto set my hand and affix the seal of said court, at Medina, the 27th day of November, 1848.

EDWARD L. WARNER, *Clerk.*
By O. S. CODDING, *Deputy.*

POLL BOOK of the Election held in the township of Liverpool, and county of Medina, and state of Ohio, on the tenth day of October, in the year of our Lord, one thousand eight hundred and forty-eight. George Harmon, Abial D. Atkinson and Ella Willmot, judges; and John I. Lester, and Jason Mathers, clerks of said election; were severally sworn, as the law directs, previous to entering upon the duties of their respective offices.

Number and names of Electors.	Number and names of Electors.
1 George Bay	38 Joseph Zimmermann
2 Louis Winterpaugh	39 Sebastian Ahart
3 Abial Atkinson	40 Arunah Ransford
4 Eavin Farnsworth	41 Lountz Serfort
5 George Harmon	42 John Baner
6 Nathan Carr	43 Harris T Warner
7 Jason Mathers	44 Lucius D Frisbee
8 Alonzo Pritchard	45 John A Speat
9 Goadleab Broad	46 Antone Myer
10 William Broad	47 George Pierce
11 Almond Marsh	48 Henry Hable
12 John Biddle	49 Daniel Ford
13 Ella Willmot	50 Elias N Clark
14 Edmund Mallett	51 Hiram Richmond
15 Francis Newin	52 John Maley
16 John C Keesler	53 James M Olin
17 Enoch Carter	54 Lucian Deming
18 John Miller	55 Frederick Smith
19 David Clark	56 Leonard Warner
20 John Golmer	57 Daniel Mallett
21 Jacob Gool	58 Alford Whitmore
22 Nicholas Gravenstrater	59 Austin Dirk
23 Francis Gander	60 Augustus Schuster
24 Leonhard Magner	61 Lountz Weber
25 Christian Mallett	62 Joseph Terril
26 John Raven	63 Joakim Golmer
27 Charles Raven	64 John Pierce
28 Jacob Guger	65 William Warner
29 Nicholas Eck	66 Isaac Whitney
30 Joseph F Terril	67 Harvy Terril
31 Jacob Gander	68 Sheslock Terril
32 Orson Sabin	69 Frederick Walker
33 Moses Terril	70 Casper Hetnick
34 Mark B Warner	71 Jacob Harmon
35 J L Pritchard	72 George State
36 George Puder	73 Charles Gayer
37 Erastus A Tillotson	74 John Hetnick

POLL BOOK OF LIVERPOOL---Continued.

Number and names of Electors.	Number and names of Electors.
75 Pelatiah Pierce	118 Jeremiah Roe
76 Henry Miller	119 Peleg Olin
77 Charles Prichard	120 Luman H Compton
78 G W E Metzger	121 Adam Schneider
79 Antone Beare	122 Rufus Brish
80 Henry Cushman	123 Aaron Warner
81 Philo French	124 William Zilsilman
82 Charles G Metzger	125 Jacob Miller
83 Lewis Nulenberg	126 Charles Guyer Jr
84 Moses Deming	127 Jacob Shart
85 Joseph Shepard	128 August Kish
86 Abijah Welton	129 Jacob Miller Jr
87 Goadlep Shafer	130 Levi Loomies
88 Jacob Abbot	131 Seth Thomas
89 Hiram W Richmond	132 Jacob Rhodes
90 Powel Gravenstrater	133 Robert Loomies
91 Henry West	134 Freeman Loomise
92 Adam Gardner	135 Eri L Warner
93 Samuel Linds	136 Paul Bolheimer
94 Eugene Gilchrist	137 John Kobb
95 Lester F Sutliff	138 Belshazer Mathias
96 Jackson Pierce	139 Melvin Loomise
97 Charles Warner	140 Francis Bordegheimer
98 Henry C Burt	141 Aaron Carr
99 Ephraim Wormstick	142 Lewis Rolling
100 Walter West	143 Robert Carr
101 John Clatt	144 Silas Hodgden
102 John Hacker	145 Charles Beodegheimer
103 Andrew Ernst	146 John Wolf
104 John Cassett	147 Christopher Hokeney
105 Jacob Tell	148 William Hitzelberger
106 Frederick Lynda	149 John Baish
107 Joseph Kibbe	150 John Maggets
108 James Bullock	151 Jacob Marsh
109 William Pritchard	152 Alpheus Warner
110 Place Andrews	153 Justus Warner
111 John Crelick	154 Lemuel B Parker
112 G W Sumner	155 Martin Terril
113 John T. Steak	156 Albert G Lawrence
114 Joseph Kobb 2d	157 Mason Terril
115 Charles Hayer	158 Josiah Wood
116 Frederick Speat	159 Charles Green
117 Jacob Metacar	160 Michael Long

ROLL BOOK OF LIVERPOOL.—Continued.

Number and Names of Electors.	Number and Names of Electors.
161 George Ames	204 William Muddinvan
162 Andrew Hill	205 Samuel Jones
163 Elias Lillie	206 Martin Fleck
164 Nelson Terril	207 Ebenezer Willmott
165 Daniel Schnider	208 Francis T Smallman
166 Richard Ridgway	209 William Heath
167 David S Gregory	210 Lucius Warner
168 Edmund Parmelee	211 George Ruder
169 Andrew Hefler	212 John Marsh
170 Michael Clinat	213 John Yetter
171 Ebenezer Burt	214 Andrew Rentz
172 Peter Miller	215 Michael Eckert
173 Christopher Slier	216 John Greenhoe
174 Francis Bowman	217 Goadleab Step
175 L T Lovejoy	218 Virgil H Warden
176 Henry Pierce	219 Whitman Davis
177 Michael Goler	220 John Dye
178 George Goler	221 Sidney Pool
179 William Shafer	222 William Purdy
180 Goodin Ferril	223 Goadleab Speath
181 Orleas Gravenstrater	224 Joseph Lyman
182 George Miller	225 Joseph M Warner
183 Lewis R Cook	226 James Stewart
184 John J Lester	227 Levi Snell
185 Leonard Snell	228 Stephen Atkinson
186 Michael Greniger	229 Franklin Marsh
187 Charles L Sabin	230 Bancraft Hassen
188 John C Wideman	231 Jabob Piply
189 Christian Uga	232 Asahel S Parmele
190 Samuel C Arnold	233 Michael Greenhoe
191 Lester Tubbs	234 Barnhart Mouser
192 Joel S Sabin	235 Volentine Folgh
193 George Schnider	236 George Myer
194 Andrew Schnider	237 Joseph Stephony
195 George G Schnider	238 James A Hancock
196 Henry Hasnoth	239 George Vinegar
197 Albert G Hath	240 William Pritchard
198 Barney Spooner	241 Charles Ukeler
199 Andrew Right	242 Amos Atkinson
200 William Sprague	243 Michael Etzel
201 George Lewis	244 Abram Beebe
202 Noah Warner	245 Cyrus Parker
203 William F Shelden	246 Clark Davis

POOL BOOK OF LIVERPOOL—*Continued.*

Number and Names of Electors.	Number and Names of Electors.
247 Barnabas Jackson	273 Christian Knell
248 Warner Beebe	274 Godfred Ukebe
249 Lewis Renegar	275 Anson Selley
250 R. R. Deming	276 John G. Leetes
251 Matthias Keller	277 Hiram Hill
252 Elisha Willmot	278 Christian Peat
253 John T. Deuble	279 Matthias Mack
254 Jacob Frank jr	280 Jacob Keller
255 Augustus Parker	281 Fredrick Mack
256 Jacob Frank	282 John Groll
257 Peter Lansing	283 John B. Tyler
258 Henry M. Hauk	284 Clements Kolb
259 John Zacharias	285 Martin Keller
260 Matthias Muntz	286 Henry Mallet
261 Lot Hancock	287 Joseph Kolb
262 John Frank	288 Stephen J. Lamphear
263 Jacob Uga	289 Eliada Warner
264 David Wolgeman	290 Thomas Landenberger
265 Michael Metzgar	291 Henry Hacker
266 Goodleab Bakner	292 John Keys
267 John Baner	293 D. E. Haines
268 Charles Sabin	294 William Amberster
269 Joseph Mouser	295 John Ahr
270 Goodleab Maley	296 Merrick Badger
271 Marcus Sabin	297 William Sutliff
272 John Vinegar	298 Fredrick Swartz

It is hereby certified that the number of electors at this election amounts to 298.

ELLA WILMOT,
A. D. ATKINSON,
GEORGE HARMON. } *Judges.*

Attest:

JOHN J. LESTER, }
JASON MATHERS. } *Clerks.*

The State of Ohio, Medina County, ss.

I, Edward L. Warner, Clerk of the Court of Common Pleas of the County and State aforesaid, do hereby certify that the foregoing is a true copy of the Poll Book of the general election for State and County officers, held in the township of Liverpool, in said county, on the 10th day of October, A. D. 1848, as returned to the office of the Clerk of said Court, and now on file in this office.

In testimony whereof I hereunto set my hand and affix the seal of said Court, at Medina, the 14th day of November, A. D. 1848.

Attest:

E. L. WARNER, *Clerk.*
By O. S. CODDING, *Dept.*

REPORT

OF THE

MAJORITY OF THE SELECT COMMITTEE ON HOUSE BILL NO. 11, "TO IMPROVE THE LAW OF EVIDENCE."

IN HOUSE—*February* 21, 1849.

The majority of the select committee to whom was recommitteed House bill No. 11, "to improve the law of evidence," have had the same under consideration, and beg leave to report, that they have bestowed upon the subject referred to them all the attention and reflection which the nature of their other duties would permit. The bill proposes to abrogate the common law rule that excludes witnesses from testifying in a cause, by reason of their having a pecuniary interest in the event of the suit. This rule, as it now stands, renders persons who have an interest in the event of the suit incompetent as witnesses. The bill proposes to remove this disability, and thereby make all persons standing in such relation to a suit, competent as witnesses, and let their credibility go to the court and the jury, as is the case now with all persons who are competent as witnesses.

The rule which the bill proposes to abolish is of great antiquity, and therefore your committee approach the subject, and enter upon the discussion of the propriety of abolishing the rule, with all that reverence that is due to the consideration of a change of a common law rule of such venerable antiquity.

Your committee believe that this rule of the common law, as it now exists, strikes at the very foundation of human testimony. While the law, in all other cases, presumes that men are honest and upright until the contrary appears, yet, in this case, by the operation of this common law rule of evidence, all persons who are called as witnesses in a suit in which they may happen to have a pecuniary interest in the event of the same, are presumed to be dishonest, immoral, and capable of committing perjury. What is the practical operation of this rule? To illustrate its operation, your committee will put a case. Suppose A and B, one as a plaintiff and the other as defendant, have a suit; C knows all about the facts of the case, but, by some circumstance or other, he happens to have five cents, or five dollars interest in the event

by the exclusion of important testimony; wisely opening the door to the witness, but reserving the estimate of his credit, and the value of his evidence, to those who are to judge the cause. It also sweeps away the numberless nice and subtle distinctions in which the profession was wont to luxuriate; disencumbers our jurisprudence of a heavy load of useless decisions, resting upon refinements and not principles, and abridges the trial of causes by shutting out those debates that used daily to arise upon the admission of proofs, which the common sense of mankind at once pronounced should be received, and which the law itself did receive in other instances, not distinguishable by the naked eye of plain reason. There have been few greater improvements in our judicial system than those which are effected by this valuable statute." See *Am. Law Mag.* 374; 6 *Law Reporter*, 476.

It seems, from this, that the country which is considered the mother of the common law, does not hesitate to change the principles of that law when it is discovered that the reasons upon which they are founded have ceased to exist. What place could be found where there would be more veneration felt for the common law, by reason of its great antiquity, than the country in which it originated? Yet even there, when it is discovered that any of those old principles have ceased to have any foundation in reason, they do not hesitate to alter or abolish them in the true spirit of reform.

Your committee will again take the liberty, in elucidation of the subject, to make another reference and quotation. The State of New York, which has always, till within a few years, adhered with great tenacity to the common law, has followed the lead of England in this great reformation in the law. The commissioners, all eminent lawyers of that State, who were charged with the duty of preparing a "code of procedure on practice and pleadings," after the new constitution was adopted there in 1846, at the annual session of the Legislature of that State, in 1847-8, made their report. In their report was the following: "No person offered as a witness shall be excluded by reason of his interest in the event of the action. But this section shall not apply to a party to the action, nor to any person for whose immediate benefit it is prosecuted or defended." Vide sec. 351, ch. 8, p. 246, "Code of Procedure," N. Y.

The commissioners went the whole length of "Lord Denman's Act," and reported a section that "no person offered as a witness shall be excluded by reason of a sentence for felony." The Legislature enacted into a law section 351, above referred to, and thereby made the same change in the common law of evidence that the bill recommitted to your committee proposes to make in this State.

The commissioners in their report, in remarking upon the propriety of changing the common law rule, as they proposed to do by section 351, above cited, say: "The abrogation of the rule which excludes a witness who has an interest in the event of the action, has been frequently proposed and discussed in this State. We think the time has come for effecting it. The rule appears to us to rest upon a principle altogether unsound; that is, that the situation of a witness will tempt him to perjury. The reason strikes at the foundation of human testi-

mony. The only just inquiry is this: whether the chances of obtaining the truth, are greater from the admission or the exclusion of the witness. Who that has any respect for the society in which he lives, can doubt that, upon this principle, the witness should be admitted? The contrary rule implies that, in a majority of instances, men are so corrupted by their interest, that they will perjure themselves for it, and that, besides being corrupt, they will be so adroit as to deceive courts and juries. This is contrary to all experience. In the great majority of instances, the witnesses are honest, however much interested; and in most cases of dishonesty, the falsehood of the testimony is detected and deceives none. Absolutely to exclude an interested witness, is therefore as unsound in theory as it is inconsistent in practice. There is not another rule in the law of evidence so prolific of disputes, uncertainties, and delays, as that we are considering. It is wiser, we cannot doubt, to place the witness on the stand, and let the jury judge of his testimony." Vide Code of Procedure, N. Y. Statutes, pages 246, 247.

The Legislature of this State has in a great many instances, repealed the common law relating to particular subjects, and in other instances, it has enacted principles of the common law into statutes. Of the former, your committee will only notice a few instances. The stern and rigid common law rule in relation to legitimate and illegitimate children has been abolished in this State, and the Roman or civil law on that subject has been substituted in its place. Vide Swan's Statutes; page 288, sec. 13. We have broken away from many of the rules of descents under the common law. Property in this country, descends equally to the heirs of a decedent; while by the old rules, males were preferred to females, and then there was the right of primogeniture among males; of the latter, our legislature has re-enacted by statute the common law rule, relative to days of grace on negotiable paper. Many other instances might be referred to, but it would only tend to lengthen this report; but enough references have been made to show that we have been continually making changes in the common law rules, and the legislature of this State has never hesitated to change the rules of the common law, when the state of society and the domestic and business relations of the same demanded it.

Hence, it will be seen that our predecessors have always, when they saw that society had outgrown any common law rule, and that the same was no longer adapted to our wants and situation, abolished the same, and they did not refrain from that duty under such circumstances, because the rule was venerable for its antiquity. If this adherence to old rules and laws, which many possess even at this day and age, had always been the governing principle, we should doubtless, even now, be living under, and be governed by the laws of the "Twelve Tables," and perhaps under the laws of Solon and Lycurgus. But we find that the laws of all countries have progressed with society, and it has been the policy of all nations to adopt such laws as would suit the wants and necessities of their situation; and in this view of the case, your committee feel great surprise and astonishment, that the rule, the bill under consideration proposes to abolish, should be recognized in this state,

at the middle of the nineteenth century, while most of our other laws are liberal and adapted to the age.

While *reform* and *improvement* have reached every other science and system extant; that rule of evidence under consideration has remained untouched. Your committee would discard the idea, that the law is to remain untouched, and unimproved, while great improvements and reform, are going on in every thing else. We would not recommend the laying of violent hands upon the whole system of the law; but they do earnestly urge and press that system of policy upon our lawgivers, that will induce them when the reason of a law or rule, is gone, and as a consequence, the foundation upon which it rests, that they will repeal the law or abolish the rule, and not cling to the shadow, when the substance has departed.

In pursuing the subject farther, your committee would remark that some of the most learned jurists in this country, are urging that all the disabilities that render witnesses incompetent, should be removed, and that their credibility should go to the court and the jury.

Your committee will not now stop to enquire, whether such a course would be good policy or not, but they refer to the fact, in order to show that men learned in the law, are insisting upon removing all disabilities from witnesses. It is well known, that reforms in every science, or in every system are not all made at once. It takes time and experience, to reform and render perfect any system. Your committee only propose by the passage of this bill, to remove one of the many disabilities from witnesses, and that is, the one that renders a witness incompetent, by reason of an interest in the event of the suit, as before stated. Your committee believe that the passage of the bill under consideration, would be the greatest measure of law reform ever effected in this State, and that its salutary effects would be seen and felt at least by all who are engaged in the administration of the law.

Justice could be better dispensed, parties would be able, more effectually, to obtain a redress of their grievances, in resorting to legal remedies in pursuit of their just rights, the law of evidence in this respect would at length be placed upon a rational foundation, and the rule as it now exists, and which is so repugnant to common sense would be thereby swept away, and a more salutary one adopted, one more in accordance with the spirit of the age. Your committee, entertaining these views, report back the bill and recommend its passage. It is proper to remark that the bill was copied from Lord Denman's act, with alterations suitable and adapted to our situation, and in conformity with our practice in cases at law and in chancery.

All which is respectfully submitted,

H. W. SMITH,
G. E. PUGH.

The following is the bill to which the report refers :

A BILL

FOR IMPROVING THE LAW OF EVIDENCE.

Whereas, the inquiry after truth in courts of justice, is often obstructed by incapacities, created by, and in force by virtue of the common law, and it is desirable that full information as to the facts in issue, in civil cases, should be laid before the persons who are appointed to decide upon them, and that such persons should exercise their judgment on the credit of the witnesses adduced, and on the truth of their testimony, now therefore.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio*, That no person offered as a witness, shall hereafter be excluded by reason of incapacity from interest, from giving evidence, either in person or by deposition, according to the practice of the court, on the trial of any issue joined, or of any matter or question, or on any inquiry arising in any civil suit, action or proceeding in any court, or before any judge, jury, coroner, magistrate, officer, or person having, by law or by consent of parties, authority to hear, receive and examine evidence; but that every person so offered, may and shall be admitted to give evidence on oath, or affirmation, notwithstanding that such person or persons may, or shall have an interest in the matter in question, or the event of the trial, or of any issue, matter, question or inquiry, or of the suit, action or proceeding in which he, she or they, are offered as a witness or witnesses: Provided that this act shall not render competent a party to any suit, or action at law, or any person in whose immediate and individual behalf any action at law may be brought, or defended, or the husband or wife of such persons respectively.

Sec. 2. This act to take effect and be in force from and after the first day of March, A. D. 1849.

Sec. 3. All laws, whether statute or common law, that conflict with the provisions of this act, be and the same are hereby repealed.

REPORT

OF THE

SELECT COMMITTEE ON HOUSE BILL NO. 21.

Your Select Committee to whom was recommitted House Bill No. 21, entitled "A Bill to secure to the laborer his hire," had the same in consideration, and now respectfully submit the following

REPORT.

The laboring part of our community, those brave and hardy men to whose chivalry in war we are indebted for the preservation of our country's honor and independence, and whose personal industry and perseverance, in times of peace, has produced all the wealth and all the comfort we so plentifully enjoy as individuals and as a nation, have always disdained to ask, at the hands of legislation, for any kind of special right or privilege. Yes, while GREEDY CAPITAL, real and fictitious, has actually besieged the halls of legislation from year to year, supplicating, by all means at its command, for special privileges, to be granted to its own minions; HONEST LABOR has never yet demanded nor obtained any special privilege for its representative, the laboring man. And, if this bill were calculated to confer anything like a special privilege, it would find no advocate in your committee.

But, while the honest laborer scorns to ask for special privileges, he *demand*s the restoration of his inalienable rights, of which he has been robbed by special legislation.

The laborer is worthy of his hire. Even the good book says: "*The wages of him that is hired, shall not abide with thee all night until the morning.*" His wages are due to him, as soon as his labor is performed; but special legislation has deprived him of this right. Instead of enabling the laborer to collect his wages, when due, special legislation FORCES HIM to give to his employer a credit of from three to eight months, however wealthy such employer may be, and however much the laborer may need his wages for the maintenance of himself and family. In this respect, the bill proposes to restore to the laborer that right of which he has been wrongfully deprived by your stay laws.

There is still another act of special legislation equally as unjust and oppressive to the laboring man, namely: the law which exempts from

execution an amount of personal property of from two hundred and fifty to three hundred dollars. It is admitted, that it would be **HARD** to deprive the family of a poor employer of the necessary comforts afforded by said amount of personal property; but it is certainly **UNJUST**, by means of said law, to deprive the family of the laboring man of the comforts for which he has toiled in hard labor. If one of those families is bound to suffer, it should, by no means, be the family of him who has earned by the labor of his hands, the necessaries for his family.

Yet, such cases, where the laborer is hired by a man actually too poor for paying his wages, are of rare occurrence. Those who are themselves obliged to work, are generally the most careful to hire no hands, unless they have the means to pay them. Most generally it is from the reckless speculator, who lives without working, that the laborer has to suffer.

Your exemption laws secure from execution and sale an amount of personal property sufficient for the use of most families. The real property cannot be levied upon, on a judgment by a justice of the peace; thus, the employer may own any amount of real estate, and a judgment cannot be executed against him by any constable. Here your exemption law is as unjust against the laborer, as your stay law.

In order to obtain an execution against such real estate, the judgment of the justice must, by transcript, be carried to and confirmed by the Court of Common Pleas. This, by your law, can only be done by a lawyer, and the general consequence is, that the laborer, instead of receiving his wages, as due and when due, must sacrifice his earnings, or the greater part thereof, in his endeavors to collect them.—Your committee knows hundreds of instances where all this **is** true to the letter.

There are also hundreds of cases, where reckless employers, for the purpose of embarrassing their judgment creditors, and without any good cause, appeal from judgments of small amount, rendered by justices of the peace. In all such cases the laborer is bound, by your law, to work for lawyers' fees, while his family is left to suffer or to starve.

This is all wrong. Said bill No. 21, is intended to remedy these evils as much as possible, under our present state of legislation. The laborer has submitted in silent patience to these legislative iniquities; but he shall do so no longer. The laborer has, thank God, a voice in this government, and he shall and must be heard.

Your committee, therefore, reports said bill No. 21 back, as amended, and respectfully recommends its passage.

HENRY ROEDTER,
Select Committee.

HOUSE BILL NO. 21, AS AMENDED.

A BILL—To secure to the Laborer his Hire.

Sec. 1. *Be it enacted by the General Assembly of the State of Ohio:* That in all actions for wages of labor, when the amount or balance claimed to be due, shall be less than fifty dollars, and when, upon the trial of such action, it shall appear to the satisfaction of any justice of the peace, before whom the same has been commenced, that such amount or balance, or any part thereof, has become due to the plaintiff from the defendant, for any kind of mechanical or manual labor by such plaintiff personally performed, within six months next preceding the commencement of such action; then such justice of the peace, in entering his judgment, shall note the fact, that the same is for wages of labor.

Sec. 2. That upon all judgments for wages of labor, rendered in conformity with the foregoing section, execution shall be issued forthwith; that all such executions shall be returnable within thirty days after the date thereof; that no personal property whatever shall be exempt from levy and sale upon such execution; and that no stay of such execution shall be allowed, except by the written consent of the plaintiff entered upon the docket of such justice of the peace.

Sec. 3. That the provisions of this act shall also extend to, and be in force upon all actions, judgments and executions instituted, rendered and issued under the provisions of the act, entitled an act to create a lien in favor of mechanics and others in certain cases, passed March 11, 1843, commonly called "the lien law."

Sec. 4. That any person whose claim is partly for wages of labor, and partly on any other account, may bring a separate action for so much of his or her claim as may be due wages of labor.

Sec. 5. That so much of the act entitled an act to amend an act entitled an act to regulate judgments and executions at law, passed March 1, 1831; and so much of the act entitled an act, defining the powers and duties of justices of the peace and constables in civil cases, passed March 14, 1831, and so much of the act entitled an act to create a lien in favor of mechanics and others in certain cases, passed March 11, 1843, as may be conflicting with the provisions of this act, be and hereby is repealed.

Sec. 6. This act to be in force from and after its passage.

REPORT

OF THE

SELECT COMMITTEE ON THE PROPOSED NEW COUNTY OF CUMBERLAND.

IN HOUSE—*February* 21, 1849.

The select committee, to which was recommitted House bill No. 143, to erect the new county of Cumberland, and the petitions and remonstrances connected therewith, have had the same under consideration and

REPORT:

That there is within the counties from which it is proposed to erect the new county, abundance of territory, without reducing either below the constitutional amount of territory.

The territory to compose the new county lies on the west end of Belmont, the east end of Guernsey, and the south end of Tuscarawas counties. All the county seats of these counties lie near the extremities of their borders farthest from the new county, and none of them would be nearer the new county seat than twenty miles, making in the new arrangement a much nearer central location of the county seats in all the counties effected by the change.

There are within and immediately affecting this territory, four other claims for new counties, and the removal of two county seats, all of which would be forever put to rest by the passage of this bill. The removal of the county seats of the counties of Belmont and Guernsey have, not many years since, occupied the attention of this body, and are now but waiting the defeat of the new county to renew their efforts. There are from within the bounds of the proposed county now before your committee, nineteen hundred and seventy legally certified petitioners which we believe to be a clear majority of all the voters in the territory, and this too with four other claims affecting the same boundaries. There are 806 remonstrances against said new county mostly within its proposed limits.

By reference to former legislation on this claim your committee find that after the first application for this county the remonstrances within the new county have generally outnumbered the petitioners. On further inquiry we find this to be the only claim presented, out of the five, while the friends of other claims were remonstrating, which generally outnumbered the petitioners. Four of the five claims have been presented, and are now before this Legislature, the majority of petitioners for these claims being composed of remonstrators against Cumberland, has given to it a majority of petitioners. Nor is this all we find. Not less than six thousand voters and tax payers are petitioning this Legislature for the different claims in whole or in part embraced by Cumberland, and in the opinion of your committee, speaking in language that cannot be misunderstood, that the people of that region desire the erection of a new county, and will not cease importuning until their prayer is granted.

The territory of which the new county will be formed is densely populated, with a rich and fertile soil under a high state of cultivation, making a county not sparse in population or meagre in wealth, but fully able to sustain the obligations they desire to take upon themselves in their new relation, nor does the loss of the territory taken from the old counties impoverish or materially affect them, but are left with all the requisites of good counties.

Fairview, the county seat of the proposed county, is a small village situated on the national road near the centre of the county. It is not an important business place, having no water privileges or other natural advantages which build up cities, but is filled with an enterprising and industrious people, who are willing and able to erect the necessary public buildings for the county, or forfeit the act creating it. If, therefore, Fairview could never become a place of large trade or business, it is no good reason why the people should not locate in it a county seat for the transaction of their county business.

Your committee is forced to the belief that the best interest of the State, and the convenience of the people require a speedy settlement of all fair and reasonable claims for new counties. Year after year claims of this character gain in number and strength by the indifference with which the Legislature treats them. The claim under consideration is a striking illustration of this position. In the year 1837, when first presented it came alone; it now appears in company with four others, and two removal claims beside.

Your committee has paid some attention to the various other claims which conflict with this, and find the largest number of legal petitioners are in its favor. In point of location, distance from surrounding county seats, and the certainty of settling all these conflicting claims with the least difficulty, your committee think this stands pre-eminent amongst all others.

The proposed county of Cumberland will be of good and convenient shape, with its seat of justice near its centre, being distant twenty miles from St. Clairsville, twenty and a half miles from Cambridge, twenty-five miles from Woodfield, twenty-four miles from Cadiz, and forty miles from New Philadelphia.

The great distance from a county seat for so great a number of people, offers, in the opinion of your committee, a conclusive reason for the erection of the county,,and in view of arresting the continued expense of legislation, giving the people their constitutional rights, as well as a sense of justice both to the State and the petitioners, constrain your committee to report the bill back with amendments, and recommend its passage.

WM. MORROW,
JAMES MOORE,
H. W. SMITH.

REPORT

OF THE

SELECT COMMITTEE ON HOUSE BILL No. 38, RELATING TO "DESCENTS AND THE DISTRIBUTION OF PERSONAL ESTATES."

IN HOUSE—February 24, 1849.

The select committee to whom was recommitted House Bill No. 38, has had the same under consideration, and has given the subject all the attention and reflection which his other duties would permit, and now submits the following

REPORT:

The object sought by the bill under consideration, is to amend the act regulating "descents and the distribution of personal estates," passed February 24, 1831, and the act amendatory thereto, passed March 7, 1835, vide Swan's Statutes, pages 286, 287. The amendment proposed will effect a radical change in the rules of descent, now in force in the acts above referred to, in an important particular. The bill proposes that, after children and their legal representatives, the husband and wife shall be heirs to each other, whether the estate came by descent, devise or deed of gift, from any ancestor or not.

It will be seen by reference to the act of February 24, 1831, sec. 7, Swan's Statutes, page 287, that husband and wife are postponed to the thousandth cousin, and only enabled to inherit from each other in the very last place, before the property escheats to the State, and even in that case, alien heirs residing out of the state can assert their claims to such estate, within ten years in one case and fifteen in another, so that if a husband or wife inherit from the other, under the section we are considering, the property can be taken away by alien heirs, within the times above referred to. If the intestate leaves no husband or wife relict of himself or herself, then the estate passes to the brothers and sisters of the intestate by the proposed amendment, and from this point no further change in the rules of descent as now in force, will be made by the passage of the bill under consideration. Your committee believes that the proposed change would be in accordance with the general feelings of mankind, and the prevailing sentiment in every community. It seems to

your committee, that the rule would be much more equitable and just, if husband and wife inherited from each other next after children, instead of the property going, as it now does, to the brothers and sisters of the intestate, in default of children. Our notions of the rules of descents, we have acquired mostly from the common and civil law; and every nation, whether ancient or modern, has had rules upon this subject peculiar to itself. Chancellor Kent, speaking upon this subject, says: "The laws of all countries, and of our own in particular, are so different from each other on the subject, (descents) that they seem to have been the result of accident or caprice, rather than the dictate of principle." Vide Kent's com. v. 4, p. 406.

If a remark of this kind could be made by the learned writer referred to, as late as 1832, in relation to the rules of descent, in our own and other countries, it is certainly worthy of inquiry whether the rule we have adopted by statute, postponing husband and wife as heirs to each other to the last place, before the property would otherwise escheat to the State, is founded upon principle, or whether it was the result of "accident or caprice." Your committee is led to believe that the rule is the offspring of the latter. The relation of husband and wife is the nearest and most sacred that exists in all the domestic relations; and if this be so, upon what principle or what reason can be adduced for giving the property of an intestate, to his brothers and sisters in default of issue, instead of giving it to his widow. Your committee believes that the rule, as it now exists, is not founded upon any good reason, and that it does not accord with the natural feelings of mankind upon this subject, and therefore ought to be changed by the passage of the bill under consideration.

The rules of descents have been greatly improved, and their improvement seems to have advanced hand in hand with civilization. We have in this country, from time to time, made radical changes in the stern and rigid rules of the common and civil law, relating to descents, after it was found that those rules were dictated by feudal policy, and were not founded upon principles of justice; and our rules upon this subject are yet susceptible of great improvement, and by the passage of this bill, another step in advance will be made in the way of improvement.

In Georgia, the widow of the intestate takes a child's share of the estate, and if there is no issue, than she takes a moiety. This rule is good as far as it goes, but it only goes half way; the bill under consideration, gives the whole instead of the half, and places the rule upon a rational foundation.

"The transmission of property by hereditary descent from the parent to his children, is the dictate of natural affections, and Doctor Taylor holds it to be the general direction of Providence."—Vide Kent's com. v 4, p 376.

If this rule is correct, it applies with great force to the question under consideration. It is equally the dictate of natural affection in default of children to make husband and wife heir to each other.

Since the passage of the act of 1831, the legislature has made some progress on the very question under consideration; although the progress is not perceptible upon the face of the act of 1831, but by looking into the "act to provide for the settlement of the estates of deceased persons," passed March 23, 1840, sec. 180, Swan's Statutes, page 372, it is provided that where an "intestate shall not have left any legitimate child, heir of his body, the widow shall be entitled to all the personal estate, as next of kin, &c." That it will be seen that in default of children, the husband and wife are now in this state, heirs to each other so far as personal estate is concerned, the wife by statute, and the husband by virtue of his marital rights under the common law, at least if the husband is not technically heir to his wife on her decease; yet he takes her personality under the rules of the common law. The change of the act of 1831, by sec. 180 above cited, is good as far as it goes, but it only goes half way, and then abruptly stops. The bill under consideration proposes to go the other half, and make husband and wife, in default of issue, heirs to each other in real, as well as personal estate.

Your committee is fully impressed with the idea, that the bill under consideration, will meet with opposition from all those whose veneration for established rules, leads them to oppose innovation or any salutary change in the law, for fear of unsettling rules long established; and your committee entertains no doubt that about the same arguments will be urged against the passage of this bill, that were used against abolishing the trial by "battle," "wager of law," "compurgation by witnesses," and the "grand assize," all which were once important features of the English law, but they were found to be unsound municipal regulations, and although they could boast of their antiquity, yet they were all abolished. It is therefore no argument to urge the continuation of an old law, merely because it is old, but the question should be, is the law founded in reason and justice? If it will not bear this test, it seems to your committee, that no fear of innovation should prevent a change or alteration of the law, so that it might accord with reason, and be adapted to the wants, feelings and spirit of the age.

Your committee can see no good reason why the bill under consideration should not become a law, and by its passage, a rule would be established, dictated alike by reason and the common sentiment of mankind.

Your committee therefore reports the bill back and recommends its passage.

All of which is respectfully submitted,

H. W. SMITH.

REPORT
OF THE
JOINT COMMITTEE APPOINTED TO INVITE GENERAL
TAYLOR TO VISIT THE CAPITAL.

The Joint Committee appointed to wait upon Gen. Zachary Taylor, President Elect of the United States, at Cincinnati, and communicate to him the joint resolution of this General Assembly, inviting him to visit the Capital of this State, ask leave to make a

R E P O R T :

In pursuance to said joint resolution, the committee on the 16th inst., waited upon General Taylor in Cincinnati, and through their chairman presented him a copy of said resolution, and accompanied the presentation of the same, with an earnest request that he would accept the invitation and accompany the committee to this capital.

The President elect replied, that his engagement at Washington City, and the condition of his health forbid him to depart from the most direct route to Washington, and that therefore he was constrained to decline the invitation to visit the capital of this State at this time.

Your committee will add, that on the 23d inst., they received from General Taylor a letter, a copy of which they attach to and make a part of this report.

All of which is respectfully submitted,

WM. DENNISON, Jr.,
JAS. H. EWING,
G. E. PUGH,
JAS. R. MORRIS,
L. GIDDINGS,
CHAUNCY N. OLDS.

[COPY OF GENERAL TAYLOR'S LETTER.]

WHEELING, VA., February 20, 1849.

GENTLEMEN: I had the honor of receiving at Cincinnati through the hands of a member of your committee, a copy of the resolutions recently passed by the Legislature of Ohio, inviting me to visit the cap-

ital of their State as the guest of the commonwealth, on my way to Washington.

The distinguished source from which this gratifying invitation comes, and the desire which I have cherished for many years, of visiting the interior of your State, would have rendered it under ordinary circumstances particularly agreeable to me to accept the civility now proffered.

But I regret to inform you that my engagements already on hand, peremptorily forbid me from traveling so far out of the direct route as to visit your city. I beg however, that you will convey to your honorable body my warmest acknowledgments for this flattering mark of their consideration, and to assure them that I indulge in the hope of yet having an opportunity of offering them these acknowledgments in person.

I am, gentlemen, with great respect,

Your obedient servant,

Z. TAYLOR.

To Messrs. WM. DUNSMON, JR., J. H. EWING, CHAS. E. PUGH, LUTHER GIDDINGS, J. R. MORAN and C. N. OLDS, Com. Leg., &c.

REPORT

OF THE

STANDING COMMITTEE ON PUBLIC PRINTING.

IN HOUSE—*March 2, 1849.*

Mr. Morris, from the standing committee on Public Printing made the following

REPORT:

The standing committee on Public Printing, who were directed to ascertain the relative proportion of the public documents ordered to be printed by this House, which members desired printed in the English and German languages, for distribution, respectfully report that they have discharged that duty, and that the relative proportion desired by members is as follows :

Members.	English.	German.
Armstrong	Seven-eighths	One-eighth.
Bigger	Nineteen-twentieths	One-twentieth.
Brainard	Three-fourths	One-fourth.
Brewer	Nine-tenths	One-tenth.
Bundy	Nineteen-twentieths	One-twentieth.
Burt	Nine-tenths	One-tenth.
Chaffee	Nineteen-twentieths	One-twentieth.
Cockerill	All	None.
Copeland	Seven-eighths	One-eighth.
Dalsell	Seven-eighths	One-eighth.
Dodds	Nineteen-twentieths	One-twentieth.
Dresback	Seven-eighths	One-eighth.
Durbin	Nine-tenths	One-tenth.
Edson	Nineteen-twentieths	One-twentieth.
Foster	Seven-eighths	One-eighth.

RELATIVE PROPORTION OF PUB. DOC.—*Continued.*

Members.	English.	German.
Franks	Four-fifths	One-fifth.
Giddings	Seven-eighths	One-eighth.
Green	Seven-eighths	One-eighth.
Gregory	Seven-eighths	One-eighth.
Hambleton	All	None.
Hammond	Nineteen-twentieths	One-twentieth.
Hardesty	Four-fifths	One-fifth.
Holcomb	All	None.
Howard	All	None.
Johnson of Medina	Fourteen-fifteenths	One-fifteenth.
Johnson of C'y'hoga	Nineteen-twentieths	One-twentieth.
Jones	Nineteen-twentieths	One-twentieth.
Julian	Nineteen-twentieths	One-twentieth.
Keller	Nine-tenths	One-tenth.
King	Seven-eighths	One-eighth.
Larrimer	Three-fourths	One-fourth.
Lee	All	None.
Leiter	Three-fourths	One-fourth.
Long	Seven-eighths	One-eighth.
Marsh	All	None.
McClure	All	None.
Miller	Fifteen-sixteenths	One-sixteenth.
Montfort	Eleven-twelfths	One-twelfth.
Morris	Four-fifths	One-fifth.
Morrow	All	None.
Morse	Nineteen-twentieths	One-twentieth.
Moore	Three-fourths	One-fourth.
Mott	Three-fourths	One-fourth.
Myers	Two-thirds	One-third.
Norris	Nineteen-twentieths	One-twentieth.
Olds	Eleven-twelfths	One-twelfth.
Peirce	Two-thirds	One-third.
Pennington	Nineteen-twentieths	One-twentieth.
Phillips	All	None.
Potter	Two-thirds	One-third.
Pugh	Two-thirds	One-third.
Randall	All	None.
Reber	Nineteen-twentieths	One-twentieth.
Riddle	All	None.
Ringwood	Four-fifths	One-fifth.
Rockwell	Seven-eighths	One-eighth.
Roedter	One-eighth	Seven-eighths.
Smith, of Brown	Three-fourths	One-fourth.

RELATIVE PROPORTION OF PUB. DOC.—*Continued.*

Members.	English.	German.
Smith, of Madison	All	None.
Scott	Nineteen-twentieths	One-twentieth.
Smart	All	None.
Thompson	Seven-eighths	One-eighth.
Townshend	Seven-eighths	One-eighth.
Truman	Nine-tenths	One-tenth.
Vorhes	Nine-tenths	One-tenth.
Van Buskirk	Nine-tenths	One-tenth.
Van Doren	Three-fourths	One-fourth.
Watt	Six-sevenths	One-seventh.
Whitely	Nineteen-twentieths	One-twentieth.
Will	Nineteen-twentieths	One-twentieth.
Woodford	Nineteen-twentieths	One-twentieth.
Speaker	Nine-tenths	One-tenth.

LETTER

OF

ALEXANDRE VATTEMARE,

To the Speaker of the House, upon the subject of International Exchanges.

IN HOUSE,—March 2, 1849.

HARRISBURGH, Pa., Feb. 24, 1849.

To the Hon. Speaker of the House of Rep. of the State of Ohio :

SIR :—Being on my way to Ohio, but fearing not to be able to reach Columbus before the adjournment of the legislature, I take the liberty of addressing you herewith a copy of a report I have made to the governors of the several States of which I have the honor of being the agent, and to call your kind attention to the subject it treats, begging of you to recommend to the favorable consideration of your honorable house, the system of international literary exchanges, a plan regarded by the good and the wise of the two hemispheres, as the most powerful means of uniting all the nations of the earth under one and the same benevolent banner of science, making of them all one great and harmonious commonwealth, whose ensign shall be "*knowledge*," and whose motto shall be "*peace and good will to all!*"

Perhaps, Mr. Speaker, the legislature has already been informed of the transmission I have had the honor to make, of the interesting collection, "*Memoirs of the French Society of encouragement for the promotion of national agriculture, manufactures and industry of France*," selected by the Ohio delegation in Washington last year; also the new edition of the complete works of LA PLACE, published by order of the National Assembly, and presented in the name of FRANCE, by the Minister of Public Instruction, to OHIO, at the request of our distinguished astronomer LE VERRIER, and delivered by myself to Professor Mitchell, of the Observatory, during a visit made by that learned gentleman to New York, in 1847—independent of a good collection of works relative to commerce, agriculture, manufactures and industry, which I have yet to present to the legislature in the name of France, as very inadequate tokens of my beloved country's esteem and fraternal feelings towards yours.

These, Mr. Speaker, constitute but an earnest of the valuable relation which national friendships establish; they furnish materials by

which the statesmen and citizens of each will appreciate and love each other.

For the purpose of giving uniformity and efficiency to the information so important to be communicated, permit me to make an appeal through you, to each member of the legislature, and to ask from them, the most appropriate source, the following information in regard to the several counties of the State of Ohio.

1st. The census of 1840, so far as the same shall be applicable to the county, corrected according to the opinion of its representative.

2. A geographical description of each county, with its relative position as to points of local interest of political or commercial importance.

3. The geology of the county, with the extent to which its minerals and the metals are now or may probably be worked, the thermal or mineral waters, with the extent to which they are or probably may be restored.

4. The state of agriculture within the county, the area in acres, value of lands under the last public assessment, with an opinion whether the lands have or have not declined in value, the character of staple productions, with an opinion as to the capacity of the lands for the profitable production of staples, other than those cultivated, the character of the labor employed, with its cost and profit, including an estimate of the cost of investment, current charges and net profits of agriculture within the county.

5. The state of commerce and manufactures, the registered tonnage belonging to the county, value of imports and exports, with the charges upon internal coast-wise and foreign trade, the social condition of the county, showing from the reports of the courts of justice, the number of prosecutions for offences, with any other statistics of a similar character, showing the state of public morality.

6. The state of religion within the county, the number of churches, proportions in which the several christian denominations co-exist, the probable amount of voluntary contribution to the support of the clergy, and to religious and charitable associations, the humane institutions within the county, with the particulars of their endowment and usefulness.

7. The state of education within the county, the system of public education, institutions of learning, number of newspapers, periodicals, &c., the names of distinguished Americans born or settled in the county, and other facts connected with or appropriate to the subject.

To this hasty indication of the subjects of information important to foreign nations, may be added any other general or particular statements which may occur to those whose province it may be to reply.

For the trouble imposed upon them, in addition to their public engagements, I have to make the apology, that in all measures of general and international philanthropy, many patriotic duties must be performed, the compensation of which is to be found in the general promotion of human happiness.

I would respectfully suggest, that each Senator should act as chairman of a committee formed of the members from the county or counties of his district, whose reports can be by him properly arranged

and revised. These different reports, Mr. Speaker, when printed as a public legislative document, would form a most valuable and most important gazetteer, which would exhibit to the world the inexhaustible intellectual, moral and commercial resources of your glorious State.

Assured that such an appeal will find acquiescence in the sentiments of every patriotic bosom,

I beg leave to subscribe myself, Mr. Speaker,

With profound respect,

Your very humble and obedient servant,

ALEXANDRE VATTEMARE.

REPORT

OF THE

STANDING COMMITTEE ON PUBLIC WORKS, RELATIVE TO WATER POWER OF MERCER COUNTY RESERVOIR.

IN HOUSE—MARCH 6, 1849.

The standing committee on Public Works, to which was referred a joint resolution instructing the Board of Public Works—"to turn into the Mercer County Reservoir, the streams of Burntwood and Coldwater, or so much of said streams as will be sufficient to create water-power at Celina, or as near that point as may be practicable, to run four run of mill-stones, &c." have had the same under consideration and

REPORT:

That in view of the facts stated in the communication of the Acting Commissioner of Public Works, (hereto attached and made part of this report) they would respectfully recommend the following joint resolution, as a substitute for that referred to them.

L. GIDDINGS,
E. P. EDSON,
J. D. RINGWOOD,
WM. DURBIN,
R. F. HOWARD.

Resolved by the Senate and House of Representatives of the State of Ohio, That the Board of Public Works be and are hereby authorized to adopt such measures as they may deem consistent with the interests of the State, to increase the water power now derived from the Mercer County Reservoir, and lease any and all water power now available, or which may hereafter be added, at such points as they

may deem advisable: Provided, however, that no money shall be expended for the purposes contemplated in this resolution, until there are applications for a sufficient amount of water power to justify the necessary expenditure: And provided, further, that it shall be first ascertained whether the State will become liable for any damages that may be suffered in creating such water power, and such damages shall enter into the estimate in comparing the cost with the value of the proposed improvement.

OFFICE OF THE BOARD OF PUBLIC WORKS,
Columbus, March 1, 1849.

Committee of Public Works, House of Representatives:

GENTLEMEN: Since my interview with you at No. 126, Neil House, on the subject of taking two streams (Coldwater and Burntwood) into the Mercer County Reservoir, I have, as then proposed, conversed with Sylvester Medberry, Esq., late Engineer in the State service.

When the Reservoir was first constructed, Coldwater and Burntwood creeks were turned into it. Mr. Medberry informs me that he found that there was as much water from other streams running into the Reservoir, as could be safely admitted, and that it was deemed advisable to cut through the embankment which had been made to divert them from their natural channels, and discharge them from the Reservoir, which was done under his direction. Since then, there has not been a year when there was any deficiency in the supply, without those streams; on the contrary, a very large amount has every year been permitted to escape.

Capt. Bradford, who has a saw-mill at Celina, at the west end of the Reservoir, says there is at this time, flowing out over the waste weir in the west bank, a volume of water two feet deep. This waste weir is 60 feet long, and discharges, when the water is 2 feet deep, about 35,000 cubic feet per minute, or 50,400,000 cubic feet in 24 hours. It is known that this waste weir sometimes discharges for a number of days together, a volume of not less than 4 feet in depth. At a very moderate estimate, there is wasted yearly, three thousand millions of cubic feet of water. Could the whole of the waste water be held within the banks of the Reservoir, it would add to the permanent power which could be made available for hydraulic purposes, sufficient to operate 23 pair of mill stones at either end of the Reservoir, in addition to an equal number which may now be operated by the water which is annually retained at the close of the rainy season in the spring of the year, and partly used during the summer for the supply of the canal, and other hydraulic uses.

If the whole of the water now available, without endangering the banks, were applied to grinding wheat, it would afford sufficient power

to grind one million of bushels, and in addition to the regular supply, if the waste water could be made available, the whole would be sufficient to grind two million bushels. It is clear, in the first place, that the Reservoir, as at present constructed, can be filled to any desirable height, without resorting to any more streams of water than those now flowing into it. The fact is also well established, that there is always a large surplus beyond the demands for navigation. To raise the water in the Reservoir, to the height required to lay up that which is now wasted, would flood, perhaps, not less than 3000 acres of valuable farming land, most of which is private property. If then the State had a right to destroy private property for the purpose of erecting water power, a large sum would be required in payment of damages.

Respectfully,

SAM'L FORRER.

REPORT

OF THE

SELECT COMMITTEE ON THE JOURNAL OF THE FIRST
THREE WEEKS OF THE SESSION.

IN HOUSE—*March 7, 1849.*

The select committee, to which was assigned the duty of preparing minutes of the first twenty days of the session, to appear in the journal, submits the following report.

JOURNAL OF THE HOUSE OF REPRESENTATIVES.

CITY OF COLUMBUS,

Monday, December 4, 1848.

At the first session of the forty-seventh General Assembly of the State of Ohio, under the constitution, began and held in the city of Columbus, on Monday the fourth day of December, A. D. 1848, the following gentlemen appeared and produced certificates of election, and were duly sworn or affirmed to support the constitution of the United States, and of the State of Ohio, and to discharge with fidelity the duties of representatives of this State, to wit :

Adams and Pike—Daniel Cockerill.

Allen, Mercer and Auglaise—Samuel R. Mott.

Ashtabula and Lake—John F. Morse.

Belmont and Guernsey—Samuel Bigger.

Butler—Joseph D. Ringwood.

Brown—James H. Smith.

Clermont—Shepherd F. Norris.

Coshocton—Joseph N. Burt.

Columbiana—David King.
Darke and Shelby—Luther Monfort.
Fairfield—Daniel Keller.
Fayette and Highland—Hugh Smart.
Franklin—James Dalzell.
Guernsey—William Morrow.
Hamilton—George E. Pugh, A. N. Pierce, Henry Roedter, Alex.
 Long, Edwin L. Armstrong.
Hancock and Wyandott—Machias C. Whiteley.
Henry and Lucas—Freeborn Potter.
Hocking, Perry and Fairfield—Isaac Larimer.
Knox and Holmes—Jacob Vorhes and Lawrence Van Buskirk.
Licking—Robert B. Truman.
Lorain—Norton S. Townshend.
Mahoning—James Moore.
Medina—James C. Johnson.
Monroe—James R. Morris.
Morgan—William Durbin.
Perry and Hocking—David Dresbach.
Portage—George Sheldon.
Putnam, Paulding, Defiance, Williams and Van Wert—Charles P.
 Edson.
Richland and Crawford—Samuel Myers and Daniel Brewer.
Stark—Benjamin F. Leiter.
Sandusky, Wood and Ottawa—Isaac Van Doren.
Seneca—John G. Breskin.
Trumbull and Geauga—Isaac Lee and Albert G. Riddle.
Wayne and Ashland—Abraham Franks, Jr., and Jacob Miller.

Over these gentlemen, Mr. Leiter, of Stark, presided, and Mr. Smith, of Brown, discharged the duties of clerk.

Afterwards, the following gentlemen, not recognizing the legality of these proceedings in reference to the admission of Messrs. Pugh and Pierce, from Hamilton county, refused to answer the calls of the chairman and clerk above named, but after presenting certificates or other evidences of election, were duly sworn by another competent officer, to support the constitution of the United States and of the State of Ohio, and to discharge with fidelity the duties of Representatives of this State, to wit:

Ashtabula and Lake—Norman L. Chaffee.
Athens and Meigs—Joseph K. Will.
Belmont—Miller Pennington.
Champaign, Clark and Madison—Jesse C. Phillips and Henry W.
 Smith.
Cuyahoga—Leverett Johnson.
Clinton—Alanson Jones.
Delaware—Alvan Thompson.
Franklin and Delaware—David Gregory.
Greene—Roswell F. Howard.

Hamilton, 1st District—Oliver M. Spencer and George W. Runyan.
Harrison—John Hammond.
Huron and Erie—George Reber.
Jackson and Gallia—Hezekiah S. Bundy.
Jackson, Gallia, Athens and Meigs—Anselm T. Holcomb.
Jefferson—Andrew Scott.
Jogan and Hardin—Samuel Watt.
Miami—Tansy Julian.
Montgomery—Luther Giddings.
Montgomery and Preble—Richard Green.
Muskingum—Abel Randall.
Preble—Felix Marsh.
Ross and Pickaway—Chauncey N. Olds and John Foster.
Scioto and Lawrence—Joshua Hambleton.
Summit—Samuel W. McClure.
Tuscarawas and Carroll—Ezra Brainerd and George Hardesty.
Union and Marion—Josiah S. Copeland.
Warren—John A. Dodds.
Washington—Seth Woodford.

Over these gentlemen Mr. Holcomb, of Gallia, presided, and Mr. Henry A. Swift, clerk of the last House, discharged the duties of clerk.

Questions arising out of the rights to seats of the members from Hamilton, occupied the attention from day to day, until the twenty-third day of December, when the following resolutions were adopted by each partial organization.

Resolved, That for the purpose of effecting an organization of this House, the two partial organizations already existing be united, and that Mr. Leiter, of Stark, act as chairman, and Mr. McClure, of Summit, as clerk, to whom the certificates and other evidences of claims to seats heretofore handed to Messrs. Smith and Swift shall be delivered, and that the House immediately proceed to the consideration of the following resolutions.

Resolved, That George E. Pugh and Alexander N. Pierce are entitled to seats in the organization of this House.

Upon which resolution neither the said Pugh nor Pierce, nor Spencer nor Runyan shall vote, but the same shall be decided by the other seventy certificated members, and in the consideration thereof the certificates of the said Pugh, and Pierce, and Spencer, and Runyan, and any other evidence of claim which either party may present, shall be read and considered, and all parties may be heard by counsel or otherwise, as they may prefer, and in case said resolution shall not be decided affirmatively by a majority vote, the House shall proceed to the consideration of the following resolution.

Resolved, That Oliver M. Spencer and George W. Runyan are entitled to seats in the organization of this House.

On which resolution the other seventy certificated members shall vote as on the preceding one. In case neither of said resolutions shall be decided affirmatively by a majority vote, Messrs. Pugh and Pierce, and Spencer and Runyan shall withdraw their claims to seats until an organization shall have been effected, and nothing in these proceedings shall be construed to interfere with or in any manner affect the right of Messrs. Spencer and Runyan or Messrs. Pugh and Pierce to claim seats after such organization.

NORTON S. TOWNSHEND,
B. F. LEITER,
ANSELM T. HOLCOMB.

REPORT

OF THE

STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS.

IN HOUSE,—March 12, 1849.

The Standing Committee on Privileges and Elections to which was referred two petitions from sundry citizens of the county of Fairfield, praying for the election of Elijah Smith, to the office of Associate Judge for that county, submits the following report:

These petitioners represent themselves to be citizens of Fairfield county, they are therefore, directly *interested* in the character of the bench of that county; and likely to be *fully acquainted* with the person whose name they present. Thus qualified to speak and entitled to be heard, these petitioners in general terms, recommend Mr. Elijah Smith, as a *proper person* to receive the appointment of Associate Judge for *that county*.

These petitioners further specify in reference to Mr. Smith, that he is "a gentleman of color, and a knot-head." Your committee is of opinion, that if Mr. Smith is really and truly a *gentleman*, this of itself is the *best* and a *sufficient* reason for his appointment. The fact that a *gentleman* is *colored* or *uncolored*, cannot in the opinion of your committee, affect his fitness for the judgeship, since no one will pretend that the measure of a man's intelligence or integrity depends upon the color of his skin, any more than upon the color of his hair or eyes.— Unless, as perhaps these petitioners wished to be understood, since most men are supposed to have some dark shades resting upon them somewhere, it is greatly to the honor and recommendation of Mr. Smith, if his are found resting entirely upon his *skin*, instead of upon his *character*; a fact, if such it be, in which he probably has decidedly the advantage of *these petitioners*.

They further specify, that Mr. Smith, is a "knot-head." If your committee understands this phrase which is believed not to be in use among *gentlemen* in the north part of the State, the fact may permit another reason for his appointment. Judges are often exercised with *knotty* questions; it must therefore be considered a fortunate circum-

stance, that *one* candidate has been found in Fairfield, with a head in *some respects corresponding* to his duties.

Your committee is not aware that any remonstrances against the appointment of Mr. Smith, have been presented to this House. It is therefore earnestly recommended, that every member of this body, before depositing his ballot, will duly consider the qualifications of Mr. Smith, as well as the expressed wishes of the good citizens of the county of Fairfield.

Your committee will further state, that it is possible this name may not have been presented in good faith ; but for the purpose of heaping insult upon a deeply injured race ; or possibly these petitioners may have intended to offer a deliberate insult to this General Assembly, which has recently done a noble act of justice in repealing the infamous black code of our State. If such dishonorable motives prompted these petitioners, your committee believes they will find no sympathy in this House, nor elsewhere among individuals worthy to be called *men*, not to say *christians*.

N. S. TOWNSHEND, *Chairman.*

REPORT

OF THE

MAJORITY OF THE COMMITTEE ON PRIVILEGES AND ELECTIONS IN THE CONTESTED CASE OF THE MEMBER FROM VAN WERT.

IN HOUSE—*March* 20, 1849.

A majority of the committee on Privileges and Elections, to which was referred the papers and evidence in the case of Charles P. Edson, contestee, and Samuel E. Brown, contestor, for the office of Representative for the counties of Williams, Defiance, Paulding, Putnam and Van Wert, submit the following

REPORT.

The seat of Charles P. Edson is contested by Samuel E. Brown, on the ground that the said Edson, at the time of his election, on the 10th day of October last, to the office of Representative, for the above named counties, was duly commissioned and acting as the legal Prosecuting Attorney in and for the county of Van Wert. Your committee have before them a certified copy of the official bond executed by Mr. Edson and his securities, from which it appears that on the 13th day of October, A. D. 1846, he was elected Prosecuting Attorney in and for the county of Van Wert. The deposition of the clerk of the court is also taken, who testifies that Mr. Edson held said office and officiated therein to the 20th day of October, A. D. 1848.

The real question of issue between the majority and the minority of the committee is, Does the fact that Mr. Edson holding the office of Prosecuting Attorney at the time of his election, render him ineligible as a candidate for, and to hold a seat in the General Assembly? We hold that it does, and shall proceed to give our reasons for this opinion.

The 26th sec. of art. 1st. of the constitution, declares, "No judge of any court of law or equity, secretary of state, attorney general, register, clerk of any court of record, sheriff or collector, member of ei-

ther house of congress, or person holding any office under the authority of the United States, or any lucrative office under the authority of this State, provided that appointments in the militia, or justices of the peace, shall not be considered lucrative offices, shall be eligible as a candidate for, or have a seat in the General Assembly."

So far as the above section applies to the offices therein specifically named, no one can have any difficulty in comprehending its meaning. Two exceptions are made, one applying to military officers the other to justices of the peace. The framers of the constitution, by the very exceptions which they have made, evidently intended that it should be so construed as to exclude all others. The great principle they had in view in framing that section, was that no individual should be eligible as a candidate for or hold a seat in the General Assembly, if at the time of his election he held any office.

Certain offices were in existence at the adoption of the constitution, and it provides for the creation of other offices by the Legislature.—The person holding an office *created* by the Legislature, is as clearly ineligible, under the constitution, to be a candidate for the office of Representative, as those specifically named.

Two questions arise, upon the decision of which the whole case depends—

1st. Is it an office?

2d. Is it a lucrative office?

The constitution does not define what is meant by the term "office," but we apprehend that it has the same meaning as when used and spoken of in other places.

In the 4th vol. of Jacob's Law Dictionary, page 433, the term is defined to be, "that function by virtue whereof a man hath some employment in the affairs of another, as of the king, or of another person," or "a right to exercise a public or private employment, and to take the fees and emoluments thereunto belonging, whether public as those of magistrates, or private as of bailiffs, receivers, or the like." Again—"officers are public or private, and it is said, that every man is a public officer who hath any duty concerning the public; and he is not the less a public officer when his authority is confined to narrow limits; because it is the duty of his office, and the nature of that duty, which makes him a public officer, and not the extent of his authority."

By the constitution of the United States, all offices under the federal government except in cases where the constitution itself otherwise provides, must be established by law. An agent of fortifications, is an officer of the United States, whose office is established by law, vide Suppl. U. S. D. vol. 2 p. 464. In the case of the State of Ohio vs. McCollister, 11 O. R. 46, court say, "The constitution of this State contemplates two different modes of conferring office; one is by appointment, the other by election. Whenever the office is conferred by the people, or of any considerable body of people, it is spo-

ken of as an *election*; whenever it is to be conferred by an individual, as by the Governor, or by a select number of individuals, as by a Judicial Court, or by the General Assembly, it is spoken of as an *appointment*.

The first section of the act of January 29, 1833, Swan's Statutes, p. 738, says: "That there shall hereafter be elected, in each organized county in this State, on the second Tuesday of October, biennially, in the same manner that other State and County officers are elected, under the provisions of the act entitled 'an act regulating elections,' passed Feb. 1831, one Prosecuting Attorney, who shall hold his office for the term of two years, and until his successor shall be elected and qualified."

By the above section, a Prosecuting Attorney is elected by the people, the same as other State and County *officers* are elected, and shall hold his *office* for the term of two years. The statute treats it as an office; common usage has treated it as an office. The duties that pertain under our law to the office of Prosecuting Attorney, clearly come within the meaning of the decision of what constitutes an office, in the authorities and decisions above cited.

The act of February 18, 1831, makes the office of County Assessor elective by the people. This is not an office specifically named in the constitution of the State, but the Legislature has the right, which they have repeatedly exercised, of *creating* offices; and an office so *created* by the Legislature, if it be lucrative, comes clearly within the provision of the constitution which makes such person, while holding such lucrative office, ineligible as a candidate for, or have a seat in the General Assembly. If all persons holding office other than those specifically named in the constitution, were eligible to seats as members of this General Assembly, then has the action of this body, in all times past, been a gross violation of constitutional duty. Not only the opinions of constitutional lawyers entitled to great respect, but a uniform current of decisions of this Legislature, for many years, has been in favor of a contrary doctrine.

Robert Lingie was returned a member of the House of Representatives from the county of Athens for the year 1825-6, produced his certificate of election and was sworn in as a member. Edmond Door contested the seat of Mr. Lingie, upon the ground that he was assessor at the time of his election, and was therefore ineligible as a candidate. The matter was referred to the committee on Privileges and Elections. That committee reported that Mr. Lingie was *not* eligible. The report was committed to a committee of the whole House. The committee rose and reported that having had the said case under consideration, they reported back without amendment, which was agreed to by the House. Mr. Bigger then moved the adoption of the following resolution.

Resolved, That Edmond Door, who appears to have the highest number of *legal* votes for representative from the county of Athens, is entitled to a seat in this House.

The above resolution did not pass; it was amended, declaring the seat of Mr. Lingie vacant, and passed, ayes 46, noes 24.

In the year 1832 John Coddington was returned a representative from the county of Medina, and was admitted to a seat in the organization of the House. Lathrop Seymour contested his seat upon the ground that he was county assessor at the time of his election. The committee on Privileges and Elections report, "that it appears from the testimony before them, that John Coddington was, on the 9th October, 1832, assessor for the county of Medina. It also appears by the testimony in the case, that the said Lathrop Seymour received the next highest number of votes for representative for the county of Medina, at the election held on the 9th October, 1832. Your committee are of opinion that the said John Coddington was not eligible as a candidate for a seat in this House, on said 9th October last, he being at that time assessor for the county of Medina, which your committee are of opinion is provided against by the 23th section of the first article of the constitution of Ohio."

The committee offered resolutions declaring the seat of said Coddington vacant, which was carried. A resolution was offered declaring that Seymour having received the next highest number of votes, was entitled to a seat; which resolution was negatived by a vote of ayes 8, noes 61.

There are some other facts in relation to this case in reference to a special election ordered by the Governor, which is not necessary for the purposes of this case to notice.

House journal, 1815-16, page 33 to 37, show that William Fee, elected a representative from the county of Clermont, was held ineligible upon the ground that he held at the time of his election, the office of Inspector, which, under the meaning of the constitution, was a lucrative office.

Waitsel Hastings, from the county of Knox, held the office of coroner at the time of his election, as appears by the journal of 1817-18, and for that reason he was held ineligible, and his seat declared vacant.

In the year 1845-6, Lyman Pacher was elected to this House from the counties of Hancock, Lucas and Wood. His seat was contested because he held the office of county commissioner at the time of his election. The committee on Privileges and Elections, in their report, say; "Their conclusion is, no person holding a county office, for whose official service the law has provided a compensation in money, in the form of fees, a per diem, or salary, is entitled to have a seat while holding such office, in the General Assembly."

Art. 7, sec. 1, of the constitution declares, "Every person who shall be chosen or appointed to any office of trust or profit, under the authority of this State, shall, before the entering on the execution thereof, take an oath or affirmation to support the constitution of the United States and of this State, and also an oath of office."

The statute provides, "that each judge of the supreme court, president and associate judges of the court of common pleas, sheriff, coroner, auditor, State treasurer, militia officers, and justices of the peace, and any officer, whose office is created by law, and not otherwise provided for, shall be entitled to receive from the Governor a commission to fill such office," &c., &c.

The office of Prosecuting attorney has been created by an act of the Legislature. It is made elective by the people. The individual elected is required, prior to entering upon a discharge of his duties, to take an oath of office. He is commissioned by the Governor of the State, and is required to do and perform all those functions which constitute within the meaning of the law and the constitution, an office. It is as much an office as that of sheriff, auditor, treasurer, or any others named in the constitution. It has all the requisites of an office. It has all the duties.

The only remaining question is, is it a lucrative office? We believe that any office to which there are fees attached, or where the law authorizes a compensation in money, is within the meaning of the constitution a lucrative office. The 3d section of the act of January 29, 1833, makes it the duty of the court to fix the amount of compensation to be paid to the prosecuting attorney for his services, which compensation varies, in the State, from one hundred dollars to two thousand. It is not the amount of the salary that makes the office lucrative within the meaning of the constitution. It is the *fact* that he receives a certain or fixed compensation for the services rendered. That which would be lucrative to one man would not be so to another, and hence the principle must be of universal application, without exception; otherwise a man holding the office of prosecuting attorney might be held eligible to a seat in the General Assembly, in one section of the State, while in the county of Hamilton, where he receives a salary from fifteen hundred to two thousand dollars, he would be held ineligible. Such a rule of construction would be most unjust and unequal. The constitution of the State does not fix the compensation of any county officers. That is fixed by law.

Your committee will state that two or three precedents are to be found where prosecuting attorneys were admitted to hold seats in the Legislature, but these decisions were all made prior to the act of January 29 1833, creating the office, and making it elective by the people. Since which time the question, until now, has not been presented to the Legislature. The act in force at the time the Legislature held prosecuting attorneys eligible to the General Assembly, provides, "That the courts of common pleas shall appoint in each county an attorney to prosecute in behalf of the State, and the attorney so appointed shall receive for his services such fees or compensation as shall be allowed by the court of common pleas of the proper county; such allowance to be certified by the clerk and paid out of the county treasury, on the order of the commissioners." See 1 Chase's Stat. 705.

The individual appointed under the above section was not required to take an oath of office, give bond, or liable for neglect of duty. His duties are not defined or pointed out. It had then scarcely *any* of the requisites of an office, and was certainly not an office within the meaning of the constitution. But the law now makes it an office, and places it in the same situation as the office of sheriff, assessor, &c.

The language of the constitution is plain: "No person holding any

lucrative office under the authority of this State, shall be eligible as a candidate for, or have a seat in the General Assembly."

The office of prosecuting attorney, as before remarked, is created under the authority of this State. It is a lucrative office, as before shown, and Charles P. Edson, holding it at the time of his election, is clearly ineligible to a seat in this House under the above provision of the constitution.

Your committee therefore recommend the adoption of the following resolution :

Resolved, That the seat now occupied by Charles P. Edson is hereby declared vacant, and that the election be referred back to the people.

MILLER PENNINGTON,
NORTON S. TOWNSHEND,
GEO. HARDESTY,

Committee.

REPORT

OF THE

MINORITY OF THE COMMITTEE ON PRIVILEGES AND ELECTIONS, IN THE VAN WERT CONTESTED CASE.

IN HOUSE—*March* 20, 1849.

The undersigned, a minority of the standing committee on Privileges and Elections, to which were referred the proofs contesting the right of Charles P. Edson to represent the counties of Putnam, Van Wert, Paulding, Defiance and Williams, dissent from the resolution submitted by the majority, and ask leave to submit the reasons of their dissent.

The contestor, Samuel E. Brown, seems to claim that the sitting member was the Prosecuting Attorney of Van Wert county, at the period of the last general election, and as such, under the twenty-sixth section of the first clause of the constitution, ineligible to a seat in this House.

The first proof in support of this claim, is a certificate from one Edward R. Wells, professing to be clerk of the court of common pleas of Van Wert county, to the following effect :

The State of Ohio, Van Wert County, ss.

I, E. R. Wells, clerk of the court of common pleas of Van Wert county, Ohio, do hereby certify that Charles P. Edson, esquire, held the office and officiated as Prosecuting Attorney of said county of Van Wert, from the twenty-sixth day of April, A. D. 1847, to October twentieth, A. D. 1848, as appears by the journal of the court of common pleas of said county of Van Wert.

In testimony whereof I have hereunto set my hand, and the seal of the court aforesaid, at Van Wert, this 8th day of November, A. D. 1848.

E. R. WELLS, *Clerk.*

The undersigned are not aware of any law in existence authorizing the clerk of the court of common pleas to certify any such fact as this Mr. Wells here undertakes to certify ; much less, it may be added, of any law authorizing him to certify what the journals of the court may show ; and, therefore, they reject this article of evidence.

The next proof presented, is a deposition of this same Mr. Wells, herewith reported, quite as peculiar as the official certificate just mentioned. The material part of it (if any part indeed be material,) is comprised in the following questions and answers :

“ Question. Do you know whether Charles P. Edson was acting as Prosecuting Attorney, and when?

Answer. By reference to the journal of the court of common pleas of this county, I find that Mr. Edson officiated as Prosecuting Attorney, from April term, 1847, to October term, 1848.

Ques. Do you know whether C. P. Edson was Prosecuting Attorney for Van Wert county, Ohio?

Ans. He was.

Ques. Do you know whether C. P. Edson is the same person who was a Representative?

Ans. I know it is reported that Mr. Edson is elected to that office.”

The undersigned reject this deposition, because the journals of the court of common pleas afford better proof of their contents than this clerk's recital, and because the answer to the second question above quoted, is incompetent. The fact of election as Prosecuting Attorney, admits and requires a much higher degree of assurance than the short, unexplained, unsatisfactory answer of the witness. Had the second answer been given to the first question, a different case *might* have been presented, for proof that a party acted as a public officer is, against himself, pretty good proof of election. But Mr. Wells tries to prove that Mr. Edson *acted* as Prosecuting Attorney, by the recital, or rather report of a record, and that he was *elected* Prosecuting Attorney, by parol testimony, instead of proving the action by parol and the election by the record.

The last article of evidence presented, is a copy, as it purports, of Mr. Edson's official bond, in these words :

“Know all men by these presents, that I, Charles P. Edson, as principal, Wm. H. Ramsey, Thomas Gilliland, Robert Gilliland, Thomas R. Kear and John W. Conn, as sureties, are held and bound to the State of Ohio, in the sum of one thousand dollars, for the payment of which we hereby jointly and severally bind ourselves. Sealed with our seals, this 24th day of October, A. D. 1846. The condition of the above obligation is such, that whereas the above bounden Charles P. Edson, was on the 13th day of October, A. D. 1846, elected Prosecuting At-

torney in and for the county and State aforesaid, as he by law is required, then this obligation to be void, otherwise, to be and remain in full force and virtue in law.

CHARLES P. EDSON,
WM. H. RAMSEY,
THOMAS GILLILAND,
THOMAS R. KEAR,
J. W. CONN,
ROBT. GILLILAND.

[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

Witness—GEO. T. CRAFTS,
P. J. HINES.

Accepted by the court, Oct. 24, 1846.

Test:

ROBT. GILLILAND, *Clerk.*

Recorded, Jan. 29, 1847.

ROBT. GILLILAND."

This is certified by the same Mr. Wells, to be a true copy of the original:

The State of Ohio, Van Wert county, ss.

I, E. R. Wells, clerk of the court of common pleas of said county, do hereby certify that the foregoing is truly copied from the "Record of official Bonds," in my office.

In testimony whereof I have hereunto set my hand, and the seal of the court of common pleas of said county, this 8th day [SEAL.] of November, A. D. 1846.

E. R. WELLS, *Clerk.*

The bond (if "the foregoing" be a true copy) is void for uncertainty and inconclusiveness, and does not even mention the county for which the party had been elected. It is claimed, however, that this certified copy of the bond affords *presumptive* proof that Mr. Edson was a Prosecuting Attorney, and *continued to be such* till after the last election, because he has therein recited the fact of his election. This document, in the opinion of the undersigned, proves nothing at all; it is not, *in form*, such a bond as the statute (Swan's stat. 739,) requires, and is utterly void for *all* purposes. And so far from affording any presumption that Mr. Edson *continued* to be Prosecuting Attorney for two years from the 13th day of October, 1846, the legal and ordinary presumption is, that he was ousted of his office for want of a proper official bond.

The undersigned might here stop the case; for here, in fact, the contestor abandons it—abandons it so utterly, too, that he has not even presented the ordinary *memorial* contesting his opponent's right to sit. Mr. E. R. Wells seems to be the only person who ever took the least interest in the affair; he furnished all the proof, trifling as it is, and he served the notice of the contest.

But what would be the objection had Mr. Browne proved, by some competent testimony, that the contestee was, on the 10th day of October last, the Prosecuting Attorney for Van Wert? Would that disqualify him to be elected a member of this House? The undersigned are clearly of opinion that it would not.

The twenty-sixth section, first article, of the constitution, is in the following words:

"No judge of any court of law or equity, secretary of state, attorney general, register, clerk of any court of record, sheriff, or collector, member of either House of Congress, or person holding any office under the authority of the United States, or any lucrative office under the authority of this State, (provided that appointments in the militia or justices of the peace, shall not be considered lucrative offices,) shall be eligible as a candidate for, or have a seat in, the General Assembly."

A manifest distinction is herein set up between those State employments which shall disqualify, and all federal employments. *The former must be LUCRATIVE offices.* Now the phrase "lucrative office" does not, in this connection, imply a *salaried* office, nor even one to which *fees* are attached. If the former, why *specify* judges and secretaries of State? If the latter, why *specify* clerks, magistrates and sheriffs? Then, too, some militia officers have salaries and justices of the peace have fees, yet they are not even to be "*considered*" as holding lucrative offices. Such looseness of language as the contrary notion would suppose, occurs no where else in our organical law, and is not to be assumed in the present clause.

The word "lucrative" was intended to convey the idea of that general disqualification which has always existed to membership in Parliament, and some cases of which Blackstone enumerates, ("commissioners of prizes, transports, sick and wounded, wine licenses, navy and victualing, secretaries or receivers of prizes, controllers of the army accounts, agents for regiments, governors of plantations and their deputies, officers of Jamaica and Gibraltar, officers of the excise and customs, clerks or deputies in the several offices of the treasury, exchequer, navy, victualing, admiralty, pay of the army or navy, secretaries of State, salt, stamps, appeals, wine licenses, hackney coaches, hawkers and peddlers") among those who are not "capable of being elected or sitting as members." 1 Bla. com. 175. Most of these offices do not exist in Ohio, but their enumeration sufficiently explains the character of the offices which are declared, in the parliamentary signification, to be lucrative.

Many of the officers specified in the clause of our constitution, already quoted, are excluded from the House of Commons likewise, but not for the reason that theirs are lucrative offices. The twelve judges are of this number, because they are the legal advisers of the House of Peers, and sit in that House. Sheriffs are excluded because they are returning officers, and the same reason excludes clerks of courts and registers. Members of Congress are excluded just as Peers are excluded from the House of Commons.

Now our constitution intended to exclude all these officers, for the various reasons just assigned, and to exclude also secretaries of State, attorneys general, and other cabinet officers, who are not excluded from the House of Commons. To these, out of jealousy to federal influence, it added all persons "holding any office under the authority of the United States," and the general, well-defined, ancient parliamentary exclusion of all persons holding any *lucrative* office.

Such is the construction heretofore put upon the clause under discussion. County commissioners and assessors have been admitted to seats upon this floor, and their right to sit has been affirmatively adjudicated. House Journal of 1845-6, pp. 790, 791, *two cases*. A prosecuting attorneyship is not a "lucrative" office, according to this construction, and has never been decided to be one.

Formerly these attorneys were appointed by the court, although they enjoyed every privilege they now enjoy, and were paid a like compensation. In those days they *frequently* sat in this House, and no man disputed their right. And it is remarkable that the act of January 23d, 1833, to provide for their election by the people, was proposed by a member who was himself a prosecuting attorney likewise. The mode of choosing the officer does not affect, one way or the other, the question whether the office be a lucrative one or not.

To be sure, since the passage of that act prosecuting attorneys have not been members of the General Assembly, but that is because the seventh section of the act forbids them. Here is the section :

"That no person shall be eligible as a candidate for, or be elected to the office of prosecuting attorney who is not an attorney and counsellor at law, duly licensed to practice in this State, and no prosecuting attorney elected in pursuance of this act shall be a member of the General Assembly of this State, and no county treasurer, county recorder, county auditor, or postmaster shall be eligible as a candidate for, or be elected to said office of prosecuting attorney." Swan's Stat. 739.

The language of this section makes a very plain distinction between the eligibility of certain officers to be candidates for the prosecuting attorneyship, and the ability of prosecuting attorneys to sit in the Legislature. No person is eligible to the prosecutorship who is not a licensed attorney, nor is any county treasurer, recorder, or auditor, or any postmaster eligible. This disqualification extends as far as the constitutional disqualification for this House, in relation to sheriffs and persons holding "lucrative" offices, even to their ability to be can-

didates. But in regard to a prosecuting attorney, the prohibition is simply that he shall not "*be a member*" of the House. These words are of the precise import of those found in the fourth section, article first, of the constitution ; namely :

"No person shall be a representative who shall not have attained the age of twenty-five years," &c.

No prosecuting attorney "shall be a member of the General Assembly," and no person under the age of twenty-five years "shall be a representative." These are propositions perfectly parallel, and, of course, to be construed alike.

A case arose in this House, last session, which called for an interpretation of the fourth section, first article of the constitution, and the principle then decided is conclusive of the present case.

In order to ascertain that principle, the undersigned will extract a passage from the opinion of the Attorney General, which the committee on Privileges and Elections of last session adopted, and which the House *unanimously* affirmed :

"There is a marked distinction between this phraseology ("*shall be a representative,*") and that which is used in other sections of the constitution. Take, as an example, the 26th section of the first article, which declares that no judge, secretary of State, &c., 'shall be eligible as a candidate for, or have a seat in the General Assembly.' Here the disqualification attaches as well to eligibility as to the exercise of the office, and, at the same time, establishes a distinction between the performance of the duties of the office, and the mere election to the office. The 28th section of the same article furnishes another example of the same distinction. It provides "that no holder of public moneys shall have a seat in either House of the General Assembly, until such person shall have accounted for, and paid into the treasury, all sums for which he may be accountable or liable." It cannot be denied that a public defaulter may be elected a representative, though not then qualified to take his seat, and that if he pay off his defalcation he becomes qualified. It seems to me that the reason of the thing strongly favors the construction given to the section, and shows that the difference in language was not accidental. The age of twenty-five is fixed as an age of *qualification*, but of qualification for what? Certainly not for being a candidate, but for being a representative—not for canvassing for the office, but for performing its duties. If that age is attained before the duties are to be performed, I can see no ground of objection." 46th House Journal, 29, 30.

If, therefore, a gentleman only twenty-four years of age can be elected to this House, and provided he becomes twenty-five years of age before the first Monday of December, can take his seat. Mr. Edson was undoubtedly *eligible* on the day of election, and as his Prosecutorship expired on the 20th of October, was entitled to take his seat on the first day of the present session.

And if any thing be needed to confirm the construction put by the undersigned on the twenty-sixth section, article first, of the constitution, it will be found in the language of the seventh section of the act above cited, and not less in the practice theretofore prevalent.

All which is respectfully submitted.

G. E. PUGH,
B. F. LEITER.

PAPERS IN THE CONTESTED CASE OF EDSON AND
BROWNE, OF VAN WERT COUNTY.

The State of Ohio, Putnam County, ss :

I, Moses Lee, Clerk of the Court of Common Pleas within and for the county of Putnam and State of Ohio, do hereby certify that Charles P. Edson had two thousand and eleven votes for Representative to the State Legislature, in this district, composed of the counties of Paulding, Van Wert, Defiance, Williams and Putnam, and Samuel E. Brown had one thousand, one hundred and sixteen votes, for the same office, at the late annual election, held on the tenth day of October, A. D. 1848, in the aforesaid counties; as appears from the abstract of votes duly certified and transmitted to the office of the clerk of Putnam county. And this opened and counted at said office pursuant to law, whereupon it appearing that Charles P. Edson, having the highest number of votes for said office, is declared duly elected such Representative.

In testimony whereof I have hereunto subscribed my hand and affixed the seal of said Court of Common Pleas, this 20th day of October, A. D. 1848.

MOSES LEE, *Clerk.*

Know all men by these presents, that I, Charles P. Edson, as principal, William H. Ramsey, Thomas Gilliland, Robert Gilliland, Thomas R. Kear and John W. Conn, as sureties, are held and bound to the State of Ohio, in the sum of one thousand dollars, for the payment of which we hereby jointly and severally bind ourselves; sealed with our seals, this 24th day of October, A. D. 1848.

The condition of the above obligation is such that whereas the above bounden Charles P. Edson, was on the 13th day of October, A. D. 1848, elected Prosecuting Attorney, in and for the county and state aforesaid, as he by law is required, then this obligation to be void, otherwise to be and remain in full force and virtue in law

CHARLES P. EDSON,
WM. H. RAMSEY,
THOMAS GILLILAND,
THOMAS R. KEAR,
JO. W. CONN,
ROB'T GILLILAND,

[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

Witnesses—Geo. S. Crafts,
P. J. Hines.

(Endorsed.) Accepted by the Court, Oct. 24, 1848.

Test:

ROB'T GILLILAND, *Clerk.*

Recorded Jan. 29, 1847.

ROB'T GILLILAND.

The State of Ohio, Van Wert County, ss:

I, E. R. Wells, Clerk of the Court of Common Pleas of said county, do hereby certify that the foregoing is truly copied from the "Record of Official Bonds," in my office.

In testimony whereof I have hereunto set my hand and the seal of the Court of Common Pleas of said county, this 8th day of November, A. D. 1848.

E. R. WELLS, *Clerk.*

The State of Ohio, Van Wert County, ss:

I, E. R. Wells, Clerk of the Court of Common Pleas of Van Wert County, Ohio, do hereby certify that Charles P. Edson, Esquire, held the office and officiated as Prosecuting Attorney of said county of Van Wert, from the twenty sixth day of April, A. D. 1847, to October 20th, A. D. 1848, as appears by the Journal of the Court of Common Pleas of said county of Van Wert.

In testimony whereof I have hereunto set my hand and the seal of the Court aforesaid, at Van Wert, this 8th day of November, A. D. 1848.

E. R. WELLS, *Clerk.*

Charles P. Edson, of the town of Van Wert, county of Van Wert, and State of Ohio, is hereby notified that Samuel E. Brown, of the county of Van Wert and state aforesaid, will contest the right of said Charles P. Edson to a seat in the next Legislature of the State of Ohio; upon the following grounds and for the following reasons, to wit:

That said Charles P. Edson was, on the tenth day of October, A. D. 1848, (on the day of his election as a Representative for the counties of Williams, Defiance, Paulding, Putnam and Van Wert,) duly commissioned and acting as the legal Prosecuting Attorney in and for the county of Van Wert, in said Legislative district.

And said Charles P. Edson is hereby further notified, that said Samuel E. Brown will attend in person or by attorney, at the clerk's office in the town of Van Wert, Van Wert county, Ohio, on the eighth day of November, A. D. 1848, at which time and place depositions will be taken by said contestor, before Thomas D. Priddy and George Crafts, two Justices of the Peace in and for said county of Van Wert, Ohio.

SAMUEL E. BROWNE, *Contestor.*

We, Geo. S. Crafts and Thomas D. Priddy, two Justices of the Peace, in and for the county of Van Wert, in the State of Ohio, do hereby certify, that pursuant to the notice hereunto annexed, and at the time and place, and before us, the said justices therein mentioned, the following named witnesses came, and being of lawful age, and first duly sworn, to testify the truth, the whole truth and nothing but the truth in the premises, testified as follows:

Edward R. Wells, being first duly sworn, as aforesaid, deposeth and saith:

Question by the contestor, Samuel E. Browne, by Nathan White, his Attorney. Did you or did you not serve the notice, hereunto annexed, on C. P. Edson?

Answer. I did serve it.

Ques. When did you serve said notice?

Ans. I do not remember the day of the month when I served it.

Ques. How many days is it since you served the said notice?

Ans. I think it is about twelve days, but I am not positive.

Ques. Do you know whether Charles P. Edson was acting as Prosecuting Attorney, and when?

Ans. By reference to the Journal of the Court of Common Pleas of this county, I find that Mr. Edson officiated as Pros. Att., from April term, A. D. 1847, to Oct. term, A. D. 1848.

Ques. Do you know whether C. P. Edson was Prosecuting Attorney for Van Wert county, Ohio?

Ans. He was.

Ques. Do you know whether C. P. Edson is the same person who was elected a Representative?

Ans. I know it is reported that Mr. Edson is elected to that office.

Ques. Are you clerk of the Court of Common Pleas for Van Wert county?

Ans. Yes, I am.

E. R. WELLS.

We, the said Justices of the Peace, do further certify that the above testimony was reduced to writing, by Geo. S. Crafts, one of the Justices above mentioned, and that the said witness, at the said time and place of taking said testimony, subscribed his name to his deposition.

In testimony whereof we have hereunto set our hands and seals, this 8th day of November, A. D. 1848.

GEORGE S. CRAFTS, J. P., [SEAL.]
THOMAS D. PRIDDY, J. P., [SEAL.]

PRIVILEGES AND

of Henry Rowder.

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stitutionally elected a member of this House, for the counties of Scioto and Lawrence, on the tenth day of October last. And Joshua Hambleton incapable of being "a candidate for," or having "a seat in" this General Assembly, held no office of Representative, on the twenty-fourth day of October last, which he could resign. He held, to be sure, a certificate of election, a commission, and he could resign that; but such a resignation only waived his *prima facie* right to sit in this House, and did not vacate the office itself, or annul the prior election lawfully holden. Will it be pretended that George Sheldon, who sat in this House (upon a certificate of election from the county of Portage) for the period of a month, could, by resigning his certificate, have ousted the present sitting member (Mr. Rockwell) of his office as Representative? The idea is too absurd even for refutation.

The committee knows of no law authorizing the Governor of Ohio to interfere between this House and the election of one of its members. The committee does not even know of any law which authorizes him to accept the resignation of a Representative—much less, to set aside an election and oust the rightful claimant, at the instance of a certificated intruder. The Constitution ordains (section eighth of the first article) that each House shall be the judge "of the qualifications and elections of its members," and this to the entire exclusion of every other branch of the government. The judiciary even cannot interfere: for over this subject matter, the members of the House shall "*be judges*"—exercise exclusive and entire judicial authority. Mr. Chancellor Kent sufficiently illustrates and enforces this proposition.

"Each House is made the sole judge of the election, return, and qualification of its members. The same power is vested in the British House of Commons, and in the legislatures of the several states; and there is no other body known to the Constitution, to which such a power might safely be trusted. It is requisite to preserve a pure and genuine representation, and to control the evils of irregular, corrupt, and tumultuous elections; and as each House acts, in these cases, in a *judicial character*, its decisions, like the decisions of any other court of justice, ought to be regulated by known principles of law, and strictly adhered to, for the sake of uniformity and certainty." 1 Kent's Com. 220.

Here was, at best, a doubtful case, a double election, one proper to be adjudicated by this House, and the Governor had not the shadow of a right to cut the gordian knot by a usurpation of our privileges.—The committee treats the acceptance of Mr. Hambleton's resignation, and the subsequent special election, as mere and utter nullities.

The only question worthy of further argument, is the question whether Mr. Kerr was, or was not elected a Representative at the October election. The committee has no doubt whatever that he was, but, for reasons to be hereafter assigned, will only discuss the point so far as Mr. Hambleton's right to resign is concerned.

The case of Wilkes and Luttrell, in 1769, will perhaps explain the whole matter better than any other recorded case. Mr. Wilkes had been expelled the House of Commons, but, upon the election to fill the vacancy, received again the highest number of votes. The House

adjudged him ineligible on account of the previous expulsion, and admitted Mr. Luttrell (the minority candidate) to a seat. The second decision was the legal and inevitable consequence of the first; if Mr. Wilkes was not elected, Mr. Luttrell undoubtedly was. And accordingly, although the case excited great public indignation, and much discussion, the stress of the argument, on the part of Mr. Wilkes' supporters, was *that expulsion did not create a disability to be re-elected*. Certainly no one can be found, of those supporters, better qualified to prove this assertion than Junius himself. In his letter of July 19th, 1769, that celebrated writer says:

"I take the question to be strictly this:—Whether or no it be the known, established law of parliament that the expulsion of a member of the House of Commons, of itself, creates in him *such an incapacity to be re-elected* that, at a subsequent election, any votes given to him are null and void; and that any candidate who, except the person expelled, has the greatest number of votes, ought to be the sitting member."

It will be observed that Junius avoided entirely the question whether in case of utter, known, acknowledged ineligibility, the candidate having the next highest number of votes, was, or was not, entitled to sit. He continually insisted upon *the very case* then in hand—the case of mere expulsion—and would not suffer Sir William Blackstone to draw him into any argument of the question last stated. "*Such an incapacity*," "except the person *expelled*," are the phrases which he *carefully* used to prevent himself from being misapprehended. And therefore, when he attacked Sir William with such fatal effect, he did it in this wise:

"Your Commentaries had taught me that although the instance in which a penal law is exerted, be particular, the laws themselves are general; they are made for the benefit and instruction of the public, though the penalty falls only upon an individual. You cannot but know, sir, that what was Mr. Wilkes' case, yesterday, may be yours or mine to-morrow, and that, consequently, the common right of every subject of the realm is invaded by it. Professing, therefore, to treat of the constitution of the House of Commons, and of the laws and customs relative to that constitution, you certainly were guilty of a most unpardonable omission, in taking no notice of a right and privilege of the House, more extraordinary and more arbitrary than all the others they possess, put together. If the expulsion of a member, *not under any legal disability*, of itself creates in him an incapacity to be elected, I see a ready way marked out, by which the majority may, at any time, remove the honestest and ablest men who happen to be in opposition to them. To say that they will not make this extravagant use of their power, would be a language unfit for a man so learned in the laws as you are. By your doctrine, sir, they have the power; and laws, you know, are intended to guard against what men may do, not to trust to what they will do."

Upon the general question whether votes given to one notoriously ineligible can be counted against the number of votes given to one who is eligible, in order to defeat the latter's election, Junius did not under-

take to meet Blackstone, and, indeed, Blackstone's logic was irresistible.

"Incapacity of being elected," said sir William, "implies, in its very terms, that any votes given to the incapable person, at a subsequent election, are null and void. This is its necessary operation, or it has no operation at all; it is *vox et preterea nihil*. We can no more be called upon to prove this proposition than we can to prove that a dead man is not alive, or that twice two are four. When the terms are understood, the proposition is self-evident. Lastly, it is in all cases of election, the known and established law of the land, grounded upon the clearest principles of reason and common sense, that if the votes given to one candidate are null and void, they cannot be opposed to the votes given to another candidate—they cannot affect the votes of such candidate at all. As they have on the one hand, no positive quality to add or establish, so have they, on the other hand, no negative one to subtract or destroy. They are, in a word, a mere nonentity. Such was the determination of the House of Commons, in the Malden and Bedford elections."

To this statement, Janius entirely succumbed; for in his reply, he confined himself to the question whether expulsion created incapacity or not. Thus, August 8th, 1769, he says:

"I have dwelt longer upon the discussion of this point, because in my opinion, it comprehends the whole question. The rest is unworthy of notice. *We are enquiring whether incapacity be, or be not, created by expulsion.* In the cases of Bedford and Malden, the incapacity of the persons returned was matter of public notoriety, for it was created by act of Parliament."

What could be more notorious, with us, than what is written specifically in the constitution? We cannot presume that the people were ignorant of the plain terms which that instrument uses; every presumption of law, and of popular intelligence, leads to the reverse. The votes could not elect Mr. Hambleton, because they were nullities; could they, *being nullities*, prevent the election of Mr. Kerr? What is void, the committee submits, is void to prevent as well as to support.

The case of Wilkes and Luttrell was, in many respects, a gross one. It was such because it extended the penalties of expulsion beyond any previous decision, because the disparity of votes was very great, because the electors of Middlesex were, by it, terribly deceived and entrapped. Care has since been taken, in our constitutions, to provide that expulsion shall only disable a party to be re-elected to the same legislature, or shall not disable him to be re-elected at all; thereby evidencing what feature of the Wilkes and Luttrell case was objectionable.

That case affords the law of England to this hour. In America, however, in 1809, its operation was wisely modified—or, rather, a precedent for its modification was presented.

The case of Haycraft and Thomas, before the Kentucky Legislature, from Harden county, is the instance to which your committee alludes. Haycraft had received the highest number of votes, but he

was ineligible. The authority of Wilkes and Luttrell was not denied, but a new and valuable principle was brought forward for the settlement of such cases—a principle since adopted in Ohio. The seat was vacated, and a new election ordered. The evil consequences of admitting a minority candidate, on account of a mistake by the electors, were clearly set forth. "It would be," as Henry Clay (chairman of the committee,) said, "subversive of the great principle of free government, that the majority shall prevail. It would operate as a deception of the people, for it cannot be doubted," he continued, "that the votes given to Mr. Haycroft, were bestowed upon a full persuasion that he had a right to receive them."

Junius had spoken upon the subject, long previously, with equal freedom and force, for he thus addressed Sir Wm. Blackstone :

"Though you might not have foreseen the particular case of Mr. Wilkes, you might and should have foreseen the possibility of such a case, and told us [in the Commentaries] how far the House of Commons were authorized to proceed in it by the law and custom of parliament. The freeholders of Middlesex would then have known what they had to trust to, and would never have returned Mr. Wilkes when Colonel Luttrell was a candidate against him. They would have chosen some indifferent person rather than submit to be represented by the object of their contempt and detestation."

Your committee agrees entirely with the principle which Mr. Clay introduced. It is a safe and popular principle, accordant to our republican institutions, fair and equitable in every case.

But the proposition that an ineligible party, receiving the highest number of votes, is elected to the office, and may afterwards resign it, is quite a different affair. Such a proposition is a contradiction in terms, and needs no authority to combat it. As long as a candidate continues *ineligible*, he certainly never can be *elected*, and, of course, cannot *resign* an office which he does not and cannot hold ; and no argument can be so powerful as the simple statement of the proposition itself.

The committee, therefore, claims only that Mr. Hambleton had no office to resign, and that Mr. Kerr was, in strict acceptance of law, elected.

The committee admits cheerfully that it is not such an election as this House, having entire discretionary power over the subject, ought to confirm ; but, upon the contrary, is of opinion that it would be more accordant to the principles of free representative government, in pursuance of safer and less objectionable precedents, to set the election aside. The committee insists, however, that the sitting member ought to be excluded—that his resignation was a nullity, and his second election a farce.

All of which is respectfully submitted.

NORTON S. TOWNSHEND,
B. F. LEITER,
G. E. PUGH.

Your committee recommends, therefore, the adoption of the following resolution :

Resolved, That Joshua Hambleton, the sitting member from the counties of Scioto and Lawrence, is not entitled to a seat in this House, that the said seat be declared vacant, and a new election ordered.

A majority of your committee also reports, that Henry Roedter received a majority of all the votes given at the last general election held in Hamilton county. His right to a seat in this House is, however contested, on the ground that at the time of his election he was holding a commission from the Governor of this State as notary public.

In the opinion of a majority of your committee, a notary public is not embraced within the provisions of the 26th section of the first article of the constitution of this State, and therefore that he is entitled to a seat in this House.

NORTON S. TOWNSHEND,
B. F. LEITER,
G. E. PUGH.

REPORT

OF THE

MINORITY OF THE COMMITTEE ON PRIVILEGES AND ELECTIONS IN THE CONTESTED CASE OF SCIOTO AND LAWRENCE.

IN HOUSE—March 20, 1849.

The minority of the committee on Privileges and Elections have examined the case of Joshua Hambleton, member returned from the counties of Scioto and Lawrence, and present the following

REPORT:

The evidence before us proves that at the general election, held on the 10th day of October last, Joshua Hambleton was duly elected a representative to the State Legislature from the counties of Scioto and Lawrence, and received a certificate of his election in due form from the Clerk of the Court of Common Pleas of the county of Scioto, on the 23d day of October.

Your committee find that on the 24th day of October, A. D. 1848, the said Hambleton tendered his resignation to Wm. Bebb, who was then the acting Governor of the State, as follows:

“Hon. WM. BEBB, *Governor of Ohio*:

“SIR—At the annual election held on the second Tuesday of October, I was elected a member of the House of Representatives of the General Assembly of the State of Ohio, for the district composed of the counties of Scioto and Lawrence. I hereby resign my seat as a member of said body from this date, Oct. 24, 1848.

“JOSHUA HAMBLETON.”

The Governor, upon receiving the above resignation, issued a proclamation, of which the following is a copy:

"To the Sheriffs of the counties of Scioto and Lawrence, in the State of Ohio, greeting :

"Whereas, I have satisfactory information that a vacancy has occurred in the office of representative to the General Assembly of the State of Ohio, for the district composed of the counties of Scioto and Lawrence, by the resignation of Joshua Hambleton. You are therefore hereby directed to hold a special election, on Saturday, the 18th day of November next, for the purpose of filling such vacancy.

"In witness whereof, I, William Bebb, Governor of the State of Ohio, have hereunto set my hand, and caused the great seal of the State of Ohio to be affixed, at Columbus, this thirty-first day of October, A. D., one thousand eight hundred and forty eight.

(Signed)

"WILLIAM BEBB."

A special election was accordingly held on the 18th day of November; and the said Hambleton having received a majority of all the legal votes given at such election, was declared duly elected a representative to the State Legislature for said counties, and received a certificate of his election, under which he appeared and was qualified as a member of the General Assembly.

The seat of Mr. Hambleton is contested by W. R. Kerr, who was his competitor at the annual election, on the ground that he was at the time of said election a sheriff of the county of Lawrence, and was therefore ineligible under the 26th section of article 1 of the constitution.

It is admitted that at both the annual and special elections, Mr. Hambleton received a large majority of all the legal votes cast in said district for the office of representative.

Your committee are also satisfied, and admit the fact to be, that at the time of the annual election the said Hambleton was the acting sheriff of the county of Lawrence, and was therefore ineligible under the above referred to provision of the constitution. It is claimed,

1. That, he being constitutionally ineligible at the time of his election, the office of representative could not be conferred upon him, and he could not therefore resign so as to create a vacancy.

2. That the Governor could not order a special election in such case.

Your committee propose to answer the following questions, which we think involves a decision of the whole case :

1. That the office of representative was conferred upon Joshua Hambleton at the annual election, and that his holding the office of sheriff at the time did not prevent him from afterwards resigning so as to create a vacancy.

2. That the Governor had a right, in this case, to order a special election, and that said Hambleton, having been re-elected at such special election, is legally and constitutionally elected a member of the General Assembly.

The 26th section of the 1st article of the constitution expressly says, that a person holding the office of sheriff cannot be a candidate for or

hold a seat in the General Assembly. But this constitutional inability must be made to appear; *prima facie*, it does not exist. Joshua Hambleton and W. R. Kerr were candidates before the people of that district for the office of representative—both by presumption of law were eligible—the people voted for them—the votes were legal, and Joshua Hambleton receiving the highest number of votes, was, by the judges of the election, declared duly elected representative to the State Legislature.

No one could be elected except the one who received the highest number of votes, and declared so by the judges of the election. To say that Hambleton was not elected at the annual election, would be to disfranchise the people of that district out of their constitutional rights and reject as illegal their votes. If Mr. Hambleton was not elected at the October election, he could not of course have obtained a certificate of election; neither could he claim his seat as a member of the Legislature. Yet no one denies that the certificate of the clerk or the abstract of votes on file in his office, if it had been presented, on the first day of the session, would have admitted him to a seat in this House.

The House has already decided this question by the admission of Mr. Jones, member returned from the county of Clinton, although he too held the office of sheriff, at the time of his election.

The people of the counties of Scioto and Lawrence, did at the annual election, confer upon Mr. Hambleton, the office of Representative to the State Legislature, and he had a right to enter upon a discharge of his duties and hold his seat until ousted by contest. This being the case, it follows as a conclusion, that he had at any time the right, before the meeting of the General Assembly, to resign his office.

It is claimed that the office of Representative does not commence until the meeting of the General Assembly. It is true that the person elected, does not, so to speak, enter upon the functions of his office until the first Monday of December. It is the election which confers upon the individual the office, and that as soon as the election is over, the office is *vested* in the individual having the highest number of votes. The constitution says: "The Representatives shall be chosen annually by the citizens of each county respectively, on the second Tuesday of October." An individual elected, may before the meeting of the General Assembly, take the oath of office before any person authorized to administer oaths, and by producing evidence of this fact at the organization of the Legislature, will entitle him to his seat, without being sworn in the presence of the House. The constitution fixes the time at which the General Assembly shall meet; a time at which the members who have been elected, shall enter upon the functions of their office. In the creation of other offices by the constitution, it expressly provides that they shall hold their office for the time specified, and until their successors are elected and qualified. But in relation to the office of Representative, we find no such provision. The office, under the constitution, commences on the second Tuesday of October, and expires upon the second Tuesday of October thereafter. In the case

of an extra session being called between the second Tuesday of October and the first Monday in December, those persons who had been last elected, must constitute the General Assembly, as the constitution does not provide for their holding over beyond the time of the annual election. If this be true, and it seems to us the constitution can admit of no other construction, it follows as a conclusion, that the office of Representative is conferred at the time of the election; and that the individual elected, can resign at any time before the meeting of the General Assembly.

It is as important to the rights of the people, to be represented in the Legislature on the first day of the session, as at any other time, yet, if the person that the people have elected to represent them, dies or resigns, and such death or resignation does not create a vacancy, so that his place may be filled before the meeting of the General Assembly, they would be entirely deprived of their constitutional rights to be represented.

In the act of February 18th, 1831, the 30th sec. provides, "that whenever a vacancy shall happen in the office of Representative, &c., the Governor of the State, for the time being, shall, upon satisfactory information thereof, issue a writ of election to the sheriff or sheriffs of said county or counties, entitled by law to such Representative as aforesaid, directing him to hold a special election within such county or counties on a day specified in such writ or writs, for the purpose of filling such vacancy."

The Governor shall, upon *satisfactory information* thereof, issue writs, &c., &c. In the case under consideration, the Governor was not bound to know or inquire whether Mr. Hambleton was constitutionally eligible to the General Assembly or not. He was required to be satisfied that Mr. Hambleton was elected—he had the certificate of election before him, declaring the fact, which of itself would be satisfactory; or he might go behind this and examine the abstract of votes on file in the secretary of State's office; but that he is required to investigate and take testimony as to whether the individual was a sheriff at the time of the election, is absurd. The action of the Governor in cases of this kind, is absolute. The resignation was, in this case, in *fact* tendered, in *fact* accepted by the Governor, and a new election ordered. We are not authorized to impeach its validity.

The law does not fix a specific time at which the Governor shall have power to order a new election, but he may do so, so soon as he shall be *satisfied* that the vacancy exists, either before the meeting of the General Assembly or after.

It will not be seriously claimed by any one, that Mr. Kerr was elected or could have taken his seat as a member of this House. The House has already decided, this session, in the Clinton county case before referred to, that the minority candidate is not entitled to his seat. And even admitting that Mr. Hambleton being constitutionally ineligible at the first election, could not be elected, it would only follow, that no one was elected, and a vacancy would therefore exist. So, therefore, in either view of the case, the Governor had a right, as he is expressly authorized by law, to order a special election to fill such vacancy; and

that Joshua Hambleton having been re-elected at such special election is constitutionally entitled to a seat as a member of this General Assembly.

Your committee have found upon examination the following cases, as parallel with the one under consideration.

1st. Case is that of Robert Stevenson, of Columbiana county, in the session of 1820-21, October 28, 1820. The Governor issued a writ of election to the Sheriff of said county, requiring him to cause an election to be holden for the office of representative, occasioned by the decease of Robert Stevenson; an election was accordingly held, and the member elected at such special election, presented his certificate on the first day of the session, took the oath of office and was held to be legally elected. Vide Ex. Jour. House Jour. 1820-21, pp. 3, 7, 8.

2d. Benjamin Willman, representative, elected from the counties of Crawford, Seneca, Marion and Sandusky, died after his election; the Governor on the 18th November, 1826, ordered a special election, and the vacancy was filled, and Eber Baker was elected to fill said vacancy, was admitted to his seat and was held duly elected. See Ex. Jour. House Jour. 1826-7, pp. 77.

3d. W. M. Smith, of Montgomery county, was elected a representative from said county; the Governor on receiving a certificate of his death, ordered a special election, November 20, 1830, and Henry Stoddard was elected at the special election to fill said vacancy—appeared and took his seat, and was by the House declared duly elected. See Ex. Jour. and House Jour. 1830-31, pp. 45, 52.

4th. William Patton was elected a member of the Senate from the counties of Ross, Franklin and Highland, in the year 1805-6; on the 22d day of November, 1805, a special election was ordered by the Governor to fill the vacancy occasioned by the death of said Patton.—Duncan McArthur was elected at said special election, appeared and took his seat, and was by the Senate declared duly elected. See Ex. Jour. Senate Jour. 1805-6, pp. 3, 7.

5th. Aron Goforth elected a member of the Senate from the county of Hamilton, on the 23d day of November, 1811; the Governor on receiving a certificate of the death of said Goforth, ordered a special election, and Ethan Stone was elected, and appeared and took his seat, and his election held good by the Senate. See Ex. Jour. and Senate Jour. 1811-12, pp. 110, 119.

II. VACANCIES BY RESIGNATION.

1st. Case. Duncan McArthur member elected from the county of Ross, in the year 1804. October 17th, the Governor received the written resignation of said McArthur, and upon said resignation, ordered

a new election, and at such special election, the said Duncan McArthur was re-elected, appeared at the commencement of the session, produced his certificate of election, took his seat and was declared duly elected. See Ex. Jour and House Jour. 1804-5 p 3, 15, 18, 19.

2d. Samuel Monett was a representative from the county of Ross, in the year 1808; October 19, 1808, the Governor received the resignation of said Monett, and ordered a special election to be held on the 1st Friday of November. At such special election, the said Monett was re-elected to fill said vacancy, took his seat as a member of the General Assembly, and was declared duly elected. See Ex. Jour. and House Jour. 1808-9, pp. 3, 6, 7.

Jeremiah Munson was elected a representative from the county of Licking, in the year 1808. Mr. Munson tendered his resignation to the Governor, and a special election was ordered, and Alexander Holden elected, November 15, 1808, appeared and took his seat, and was by the House held legally elected. See Ex. Jour. House Jour. 1808-9, pp. 51, 67, 68.

4th. Isaac I. Burnett, was elected a representative from the county of Montgomery, after which he resigned, a special election was held, and George Grove was elected November 18, 1815, at such special election and was admitted to his seat, and the election held legal. See Ex. Jour. and House Jour. 1815-16, pp. 77, 78.

5th. Lewis Mewsom, representative elected from the county of Gallia, in the year 1816; received a certificate of his election from the Clerk of the Court. David Boggs was the opposing candidate to Mr. Mewsom, and gave notice of contest. After the notice was served, Mewsom sent his resignation to the Governor, who received it and ordered a new election, November 12, 1816. At the special election, Mewsom was again a candidate, and having received the highest number of votes at such election, received the certificate of election, appeared at the commencement of the session and was admitted to his seat.

David Boggs, contested his seat on the ground that he, Boggs, had a majority at the first election. The committee report that there were two defective returns made to the clerk, one of which was received by him, and the other rejected. They say both should have been rejected or both received. In either event, Boggs would have the majority. They therefore declare Boggs entitled to his seat. Afterwards Mewsom presented the certificate of his election at the special election. The committee refer to their former report, and say that it was not in the power of Mewsom, the certificated candidate, *so to resign* as to prejudice the rights of his competitor, Mr. Boggs, at the general election.— See Ex. Jour. and House Jour 1816-17, pp. 18, 19, 84, 85.

6th. John Coddington was elected a representative from the county of Medina, in 1832-3. Coddington received his certificate of election. Notice of contest was served upon him by his competitor, Lathrop Seymour. Coddington was assessor of the county at the time of his elec-

tion, and for this reason resigned his right to a seat. The Governor received his resignation, and on the 15th day of November, 1832, ordered a special election. At such special election D. Northrup was elected, and received his certificate of election. Northrup appeared and took his seat. Seymour contested his seat. The House held that Codding was not eligible at the general election, and that his resignation created a vacancy in the office of representative from that county. The House also decided, by a vote of 61 to 8, that Seymour was not entitled to his seat. On the 15th day of December, 1832, Mr. Northrup appeared and presented his certificate, as having been elected at the special election, and took his seat, and was declared duly elected. See Ex. J., and H. J., 1832-3, pp. 16, 17, 48, 65, 88, 116.

7th. Joseph Olds was elected a representative from the county of Pickaway, in the year 1842, and received his certificate of election. Edson B. Olds, his competitor at the general election, gave notice of contest. On the 8th November, 1842, Joseph Olds tendered his resignation to the Governor. A special election was ordered to fill said vacancy. At said special election Edson B. Olds was elected and took his seat, and was by the House declared duly elected. See Ex. J., and H. J., 1842-3, pp. 4, 22.

8th. Joseph Kerr was elected a member of the Senate in the year 1810-11. November 26, 1810, the Governor received his resignation, which had been tendered. A special election was ordered by the Governor, and James Dunlap elected, who was admitted to his seat, and the election held legal. See Ex. J., and H. J., 1810-11, pp. 80, 81.

9th. John Peter received his certificate of election as senator from the counties of Gallia and Scioto, in the year 1812-13. November 10, 1812, Peter resigned. A special election was ordered by the Governor, and Thomas Rodgers was elected at the special election. On the 14th day of December, 1812, appeared and took his seat, and was by the Senate declared duly elected. See Ex. J., and S. J., 1812-13, pp. 46, 87, 88.

10th. Joseph Cauly, senator elected from the counties of Miami, Shelby, Logan and Wood, in the year 1826, resigned on the 4th day of November, 1826. The Governor ordered a new election on the 28th day of November, 1826. Daniel M. Workman was elected at such special election, was admitted to his seat, and his election held legal. See Ex. J., and S. J., 1826-7, pp. 94, 95.

11th. William Goss was elected a member of the Senate from the county of Richland, in the year 1833. He tendered his resignation to the Governor on the 24th day of November, 1833. A special election was held and Mathew Lind was elected to fill said vacancy. On the 6th day of December, 1833, he appeared and took his seat, and his election was held legal by the Senate. See Ex. J., and S. J., 1833-4, pp. 114, 117.

Your committee will state that in all their examination they were unable to find a single precedent conflicting with the above, and believe in coming to the conclusion which we do, we follow in the line of safe precedents, sustained by the law and the constitution of the State.

MILLER PENNINGTON,
GEORGE HARDESTY,
Committee.

PAPERS IN HAMBLETON'S CASE. SCIOTO AND LAW- RENCE.

The State of Ohio, Scioto county, ss.

Be it remembered that on the 23d day of October, A. D. 1848, we, the undersigned, proceeded to open the abstract of votes from the county of Lawrence, and incorporated the same with the abstract of votes of Scioto county, for one representative in the State Legislature, to wit :

COUNTIES.	Representative in State Legislature.	
	Joshua Hambleton.	William R. Kerr.
Scioto.....	1523	940
Lawrence.....	1049	556
	2572	1496

And we do also hereby certify that Joshua Hambleton had twenty-five hundred and seventy-two votes for representative in the State Legislature, in the counties of Scioto and Lawrence ; that William R. Kerr had fourteen hundred and ninety-six votes for the same office.

Given under our hands and seals the day and year above written.

C. McCOY, J. P., [SEAL]
R. B. ALFERD, J. P., [SEAL]

Attest : J. R. TURNER, Clerk.

The State of Ohio, Scioto county, ss.

I, John R. Turner, clerk of the court of common pleas for said county, do hereby certify that the foregoing are the number of votes polled in said counties of Scioto and Lawrence, on the 10th day of October, 1848, and also that it is a true and accurate copy of the incorporated votes of said counties polled on the above named day, taken from the abstract of said votes.

In testimony whereof I have hereunto set my name and affixed the seal of said court this 30th day of November, 1848.

J. L. TURNER, Clerk.
By J. L. WATKINS, Deputy.

The State of Ohio, Scioto county, ss.

I, John R. Turner, clerk of the court of common pleas in and for said county, do hereby certify that at the annual election held on the tenth day of October, A. D. 1848, Joshua Hambleton was duly elected as representative in the State Legislature, to represent the district composed of the counties of Scioto and Lawrence, as appears from the abstracts of said election duly opened and certified; he having the largest number of votes for the same.

In testimony whereof I have hereunto set my name and affixed the seal of said court, at the court house in Portsmouth, this 23d day of October, A. D. 1848.

J. R. TURNER, *Clerk,*
By J. L. WATKINS, *Deputy.*

HON. WM. BEEB, *Governor of Ohio:*

SIR:—At the annual election held on the 2d Tuesday of October, inst., I was elected a member of the House of Representatives of the General Assembly of the State of Ohio, for the district composed of the counties of Scioto and Lawrence. I hereby resign my seat as a member of said body, from this date.

JOSHUA HAMBLETON.

October 24, 1848.

To Joshua Hambleton:

SIR:—You will take notice, that the undersigned, who was a candidate at the election held on the 10th day of October, A. D. 1848, for the office of representative, to represent the counties of Scioto and Lawrence for the ensuing term, and an elector of said district, duly qualified to vote for representative, will contest the validity of your election to said office, on the ground that you were, at the time of holding said election, a sheriff of the county of Lawrence aforesaid, duly commissioned and qualified as such, and consequently "not eligible as a candidate for, or to have a seat in the General Assembly," by express provision of the constitution of the State of Ohio, article 1, section 26.

Testimony and depositions will be taken by me, relating to the above matters, before John Dillon and William Campbell, two justices of the peace of Lawrence county aforesaid, on the 6th day of November, A. D. 1848, between the hours of 8 o'clock, A. M., and 8

o'clock, P. M. of said day, at the office of the clerk of the court of common pleas for said county of Lawrence, in the town of Burlington, in said county; and if necessary, I shall continue from day to day, thereafter, between the hours aforesaid, to take said testimony, before said justices, at said place, until the 9th day of November, A. D. 1848, inclusive.

Dated this 24th day of October, A. D. 1848.

W. B. KERR.

We do hereby certify that this is the notice that Wm. B. Kerr had reference to in his deposition.

WM. CAMPBELL, J. P.,
JOHN DILLON, J. P.

To the Sheriffs of the counties of Scioto and Lawrence, in the State of Ohio, GREETING:

Whereas, I have satisfactory information that a vacancy has occurred in the office of representative to the General Assembly of the State of Ohio, for the district composed of the counties of Scioto and Lawrence, by the resignation of Joshua Hambleton. You are therefore hereby directed to hold a special election on Saturday the eighteenth day of November next, for the purpose of filling said vacancy.

In witness whereof, I, William Bebb, Governor of the State of Ohio, have hereunto set my hand and caused the great seal of the State of Ohio to be affixed at Columbus, this thirty-first day of October, in the year of our Lord one thousand eight hundred and forty-eight, and of the independence of the United States the seventy-third.

WM. BEBB.

I do hereby certify the foregoing to be a true copy of the proclamation issued for a special election in the case to which it refers.

In witness whereof I have hereunto set my hand and the great seal of the State of Ohio, the 9th day of January, A. D. 1849.

WM. BEBB.

The State of Ohio, Scioto county, ss.

Be it remembered, that on the 27th day of November, A. D. 1848, we, the undersigned, proceeded to open the abstract of votes from the county of Lawrence, and incorporated the same with the abstract of votes of Scioto county, for one Representative in the State Legislature, to wit:

COUNTIES.	Representative in the State Legislature.	
	Joshua Hambleton.	William R. Kerr.
Scioto	830	
Lawrence	450	1
Total	1280	1

We do hereby certify that Joshua Hambleton had twelve hundred and eighty votes for Representative in the State Legislature, at the special election, and that William R. Kerr had one vote for the same office.

Given under our hands and seals the day and year above written.

R. B. ALFORD, J. P.,
GEO. JOHNSON,

[SEAL]
[SEAL]

Mayor of the town of Portsmouth, and ex. officio, J. P.

Attest: J. R. TURNER, Clerk.

The State of Ohio, Scioto County, ss.

I, John R. Turner, clerk of the court of common pleas, in and for said county, do hereby certify that the foregoing is truly taken and accurately copied from the original abstract of incorporation which is on file in this office.

In testimony whereof I have hereunto set my name and affixed the seal of said court, this 30th day of November, A. D. 1848.

J. R. TURNER, Clerk,
By J. L. WATKINS, Deputy.

o'clock, P. M. of said day, at the office of common pleas for said county of Lawrence in said county; and if necessary, I will thereafter, between the hours aforesaid, said justices, at said place, until the 1848, inclusive.

Dated this 24th day of October

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We do hereby certify
reference to in his depo

name a
November, 18

R. TURNER, Clerk,
J. L. WATKINS, Deputy.

To the witnesses taken in the case of contested election of Joshua Hambleton, to a seat in the General Assembly of the State of Ohio, in pursuance of the notice hereunto attached, and at the place and place mentioned.

The contestor, William B. Kerr, was present.

William R. Kerr, of the county of Lawrence, of lawful age, being first duly sworn by us, as hereinafter certified, deposes and says as follows:

Question by contestor. Did you serve this notice on Joshua Hambleton, on the 25th of October, A. D. 1848? (See enclosed notice to Joshua Hambleton.)

Answer. I did

WM. R. KERR.

Isaac Winkler, of lawful age, of the county of Scioto, being first duly sworn by us as hereafter certified, deposes as follows:

Question by contestor. Where do you reside?

Answer. In Scioto county, Green township. I have made my home in that township over two years.

Ques. by same. Are you acquainted with William R. Kerr, who is now contesting the election of Joshua Hambleton?

Ans. I am. I have known William R. Kerr to have resided in Green township, Scioto county, over two years. I suppose that he was a candidate at the last election, for the Legislature of Ohio, for the district of Lawrence and Scioto, for I saw tickets for him with his name on, and it was generally understood that he was a candidate, and I had no doubt thereof myself.

ISAAC WINKLER.

James
first duly

Quest
riff

91

REPORT

THE

PRIVILEGES AND ELEC-

James C. Terry,
first duly sworn by us,

949.

Question by contestor.

Answer, I am Auditor of
bleton was elected Sheriff of this
out of office about the first of Novem-
ing qualified to office.

submits the fol-

We the said Justices, do further certify, that the
was reduced to writing by us, and that the said several
the said time and place of taking said testimony, subscrib-
names to their respective depositions.

Alexan-
office of
county.

In testimony whereof we have hereunto set our hands and seals
this 6th day of November, 1848.

JOHN DILLON, J. P. [SEAL]
WM. CAMPBELL, J. P. [SEAL]

Joshua Hambleton, } Sheriff's Bond, \$10,000
To the State of Ohio.

Know all men by these presents, that we, Joshua Hambleton, Jo-
seph Davidson, John Bryan, James Davidson, Stephen Wilson, M. T.
Clark, and all of the county of Lawrence, and State of Ohio, are held
and firmly bound unto the State of Ohio, in the just and full sum of
ten thousand dollars, lawful money of the United States, for the pay-
ment of which well and truly to be made to the said State of Ohio,
we hereby bind ourselves, jointly, severally, and firmly. Sealed with
our seals, and dated this 5th day of December, A. D. 1846.

The condition of the above obligation is such that whereas the above
bound Joshua Hambleton has been duly elected and commissioned to

The State of Ohio, Scioto County, ss.

I, John R. Turner, clerk of the court of common pleas in and for said county, do hereby certify, that at a special election held in the district composed of the counties of Scioto and Lawrence, on the eighteenth day of November, in the year of our Lord one thousand eight hundred and forty-eight, in pursuance of a writ of election issued by William Bebb, Governor of said State, to fill the vacancy which then existed in said district, Joshua Hambleton was duly elected as Representative for said district, at said special election to fill said vacancy, he having the largest vote for the same.

In testimony whereof I have hereunto set my name and affixed the seal of said county court, this 30th day of November, 1848.

J. R. TURNER, *Clerk*,
By J. L. WATKINS, *Deputy*.

DEPOSITIONS of witnesses taken in the case of contested election of Joshua Hambleton, to a seat in the General Assembly of the State of Ohio, in pursuance of the notice hereunto attached, and at the time and place mentioned.

The contestor, William R. Kerr, was present.

William R. Kerr, of the county of Lawrence, of lawful age, being first duly sworn by us, as hereinafter certified, deposes and says as follows:

Question by contestor. Did you serve this notice on Joshua Hambleton, on the 25th of October, A. D. 1848? (See enclosed notice to Joshua Hambleton.)

Answer. I did

WM. R. KERR.

Isaac Winkler, of lawful age, of the county of Scioto, being first duly sworn by us as hereafter certified, deposes as follows:

Question by contestor. Where do you reside?

Answer. In Scioto county, Green township. I have made my home in that township over two years.

Ques. by same. Are you acquainted with William R. Kerr, who is now contesting the election of Joshua Hambleton?

Ans. I am. I have known William R. Kerr to have resided in Green township, Scioto county, over two years. I suppose that he was a candidate at the last election, for the Legislature of Ohio, for the district of Lawrence and Scioto, for I saw tickets for him with his name on, and it was generally understood that he was a candidate, and I had no doubt thereof myself.

ISAAC WINKLER.

James M. Camp, of the county of Lawrence, of lawful age, being first duly sworn by us, as hereafter certified, deposes as follows:

Question by contestor. When was Joshua Hambleton elected Sheriff of Lawrence county?

Answer. I was not in this county at the time of his election, but from examination of the records I find that he was elected the 13th day of October, 1846, and that he was qualified as Sheriff the 7th day of December, 1846, and went out of office by the swearing in of his successor, the 3d day of Nov. 1848. I am deputy clerk of Lawrence county, Ohio, and the clerk is at this time absent.

J. M. CAMP, Jr.

James C. Terry, of the county of Lawrence, of lawful age, being first duly sworn by us, as hereinafter certified, deposes as follows:

Question by contestor. What office do you hold in this county?

Answer. I am Auditor of Lawrence county, Ohio. Joshua Hambleton was elected Sheriff of this county, in October, 1846, and went out of office about the first of November, 1848, by his successor being qualified to office.

JAMES C. TERRY.

We the said Justices, do further certify, that the above testimony was reduced to writing by us, and that the said several witnesses, at the said time and place of taking said testimony, subscribed their names to their respective depositions.

In testimony whereof we have hereunto set our hands and seals, this 6th day of November, 1848.

JOHN DILLON, J. P. [SEAL.]
WM. CAMPBELL, J. P. [SEAL.]

Joshua Hambleton, }
To the State of Ohio. } Sheriff's Bond, \$10,000

Know all men by these presents, that we, Joshua Hambleton, Joseph Davidson, John Bryan, James Davidson, Stephen Wilson, M. T. Clark, and all of the county of Lawrence, and State of Ohio, are held and firmly bound unto the State of Ohio, in the just and full sum of ten thousand dollars, lawful money of the United States, for the payment of which well and truly to be made to the said State of Ohio, we hereby bind ourselves, jointly, severally, and firmly. Sealed with our seals, and dated this 5th day of December, A. D. 1846.

The condition of the above obligation is such that whereas the above bound Joshua Hambleton has been duly elected and commissioned to

the office of Sheriff of said county of Lawrence, now if the above bound Joshua Hambleton shall well and faithfully discharge and perform all and singular the duties of said office of Sheriff of said county of Lawrence, during his continuance in said office of Sheriff aforesaid, then the above obligation to be void, otherwise to remain in full force and virtue in law.

JOSHUA HAMBLETON,
JOSEPH DAVIDSON,
JOHN BRYAN,
JAMES DAVIDSON,
STEPHEN WILSON,
M. T. CLARK.

[SEAL]
[SEAL]
[SEAL]
[SEAL]
[SEAL]
[SEAL]

BURLINGTON, Lawrence Co., O.

We do hereby approve of the within bond, as given under our hands this 7th day of December, A. D. 1846.

CURTIS SCOVILL,
BENJ. JOHNSTON,
Associate Judges.

State of Ohio, Lawrence County, ss.

I, Joshua Hambleton, do solemnly swear, that I will support the constitution of the United States and the constitution of the State of Ohio, and that I will well and faithfully, according to my best skill and ability, discharge and perform all and singular, the duties of the office of Sheriff of said county of Lawrence, according to law.

J. HAMBLETON.

Sworn to and subscribed before me, this 7th day December, A. D. 1846.

LEWIS ANDERSON, *Clerk C. C. P.*

The State of Ohio, Lawrence County, ss:

I, Lewis Anderson, Clerk of the Court of Common Pleas within and for said county of Lawrence, do hereby certify that the within bond and oath of office and acceptance thereof by Curtis Scovill and Benj. Johnston, the acting Associate Judges within and for the county of Lawrence, are well and truly taken and copied from the record of bonds in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of my office, at Burlington, this 16th day of December, A. D. 1848.

LEWIS ANDERSON, *Clerk.*

REPORT

OF THE

STANDING COMMITTEE ON PRIVILEGES AND ELECTIONS.

In House—March 20, 1849.

The Standing Committee on Privileges and Elections, submits the following

REPORT:

From the evidence before your committee, it appears that Alexander Long and Edwin L. Armstrong, were duly elected to the office of Representatives, at the last general election held in Hamilton County, and are therefore entitled to seats in this House.

The certificate of election presented by Samuel W. McClure, is in due form, but his right to a seat in this House is contested, on the ground that at the time of his election he was Prosecuting Attorney for the county of Summit.

In the possession of your committee there is evidence to establish the fact that the said Samuel W. McClure resigned the office of Prosecuting Attorney before the day on which the last general election was held. Your committee, therefore, believe that Mr. McClure is entitled to a seat in this House.

N. S. TOWNSHEND.

G. E. PUGH,

B. F. LEITER,

MILLER PENNINGTON,

GEORGE HARDESTY.

PAPERS IN THE CONTESTED CASE OF ROEDTER, ARM-
STRONG AND LONG, FROM HAMILTON COUNTY.

[A.]

TO HENRY ROEDTER, Esq.

SIR :—As an elector resident within and for the second legislative district of the county of Hamilton, and State of Ohio, at the last election held on the tenth day of October, A. D. 1848; I hereby notify you, that I shall contest your right to a seat in the House of Representatives of said state, to which you have been returned as elected within and for said district and county, at said October election, upon the following grounds :

First. That at the time of said election, and whilst the same was pending and being holden, you held the office of Notary Public within and for said county of Hamilton, under and by virtue of the laws of said state; the same being a lucrative office.

Second. That at the time of said election, and whilst the same was pending and being holden, you held the office of Deputy Marshal of the United States within and for the district of Ohio, under and by virtue of the authority of the United States.

Third. That at said election a large number, to wit, five thousand and upwards, of fraudulent ballots were received and counted for you in the several wards and townships composing said district, by the respective judges and clerks of election in said several wards and townships; whereas, said ballots ought to have been rejected and not counted in your behalf; by reason of allowing and counting said ballots, you have been returned as having a majority of votes in said district, and declared elected; whereas, had said ballots been rejected, you would not have had a plurality of votes in said district over either of your competitors, Stephen S. L'Hommedieu, John Martin, and John S. Nixon, and so could not have been returned as elected. Said ballots are claimed to be fraudulent, because the names of more persons were voted for on each ballot for said office of Representative, than the law allowed to be voted for or elected in said district.

You are also notified that, in pursuing said contest, I shall proceed to take the depositions of sundry witnesses before Ebenezer Harrison, Esq., and Samuel Perry, Esq., two justices of the peace within and for said county of Hamilton, at the office of said Samuel Perry, Esq., in the city of Cincinnati, in said county, on Wednesday, the eighth day of November next, between the hours of nine o'clock, A. M., and six o'clock, P. M., to be continued from day to day, between the same hours, until completed, if not all taken on said day.

October 30th, 1848.

W. E. BRADBURY, Contester.

[B.]

To EDWIN L. ARMSTRONG, Esq.

SIR:—As an elector resident within and for the second legislative district of the county of Hamilton and State of Ohio, at the last election held on the tenth day of October, A. D., 1848, I hereby notify you that I shall contest your right to a seat in the House of Representatives of said State, to which you have been returned as elected within and for said district and county, at said October election, upon the following grounds:

First. That at the time of said election, and whilst the same was pending and being holden, you held a lucrative office under and by virtue of the authority of the State of Ohio.

Second. That at said election a large number, to wit, five thousand and upwards, of fraudulent ballots were received and counted for you, in the several wards and townships composing said district, by the respective judges and clerks of election in said several wards and townships; whereas, said ballots ought to have been rejected, and not counted in your behalf—by reason of allowing and counting said ballots, you have been returned as having a majority of votes in said district, and declared elected; whereas, had said ballots been rejected, you would not have had a plurality of votes in said district over either of your competitors, Stephen S. L'Hommedieu, John Martin, and John S. Nixon, and so could not have been returned as elected. Said ballots are claimed to be fraudulent because the names of more persons were voted for on each ballot for said office of Representative than the law allowed to be voted for or elected in said district.

You are also notified, that, in pursuing said contest, I shall proceed to take the depositions of sundry witnesses, before Ebenezer Harrison Esq., and Samuel Perry, Esq., two justices of the peace within and for said county of Hamilton, at the office of said Samuel Perry, Esq., in the city of Cincinnati in said county, on Wednesday the eighth day of November next, between the hours of nine o'clock, A. M., and six o'clock P. M., to be continued from day to day, between the same hours, until completed, if not all taken on said day.

October 30th, 1848.

W. E. BRADBURY, *Contestor.*

[C.]

To ALEXANDER LONG,

SIR:—As an elector resident within and for the second legislative district of the county of Hamilton and State of Ohio at the last election, held on the tenth day of October, A. D., 1848, I hereby notify you that I shall contest your right to a seat in the House

of Representatives of said state, to which you have been returned as elected within and for said district and county, at said October election; upon the following grounds:

First. That at the time of said election, and whilst the same was pending and being holden, you held the office of Notary Public within and for said county of Hamilton, under and by virtue of the laws of said state; the same being a lucrative office.

Second. That at said election, a large number, to wit, five thousand and upwards, of fraudulent ballots were received and counted for you in the several wards and townships composing said district, by the respective judges and clerks of election in said several wards and townships; whereas, said ballots ought to have been rejected, and not counted in your behalf. By reason of allowing and counting said ballots, you have been returned as having a majority of votes in said district, and declared elected; whereas, had said ballots been rejected, you would not have had a plurality of votes in said district over either of your competitors, Stephen S. L'Homedieu, John Martin and John S. Nixon, and so could not have been returned as elected. Said ballots are claimed to be fraudulent because the names of more persons were voted for on each for said office of Representative than the law allowed to be voted for or elected in said district.

You are also notified that in pursuing said contest, I shall proceed to take the depositions of sundry witnesses, before Ebenezer Harrison, Esq., and Samuel Perry, Esq., two justices of the peace within and for said county of Hamilton, at the office of said Samuel Perry, Esq., in the city of Cincinnati, in said county, on Wednesday the eighth day of November next, between the hours of nine o'clock, A. M., and six o'clock, P. M., to be continued from day to day, between the same hours until completed, if not all taken on said day.

October 30th, 1848.

ISAAC BATES.

DEPOSITIONS of witnesses produced, sworn and examined before us, Samuel Perry and Ebenezer Harrison, two justices of the peace in and for the county of Hamilton, State of Ohio, to be read in evidence before the House of Representatives of the General Assembly of the State of Ohio, in the matter of the contest of the election of Alexander Long, Henry Roedter, and Edwin L. Armstrong, as members of said House, in pursuance of the notices hereto annexed, marked A, B & C.

William M. Robb, a witness on the part of the contestor, being duly sworn, deposes and says :—

I am a resident of Green township, Hamilton county, in the State of Ohio. I was present on the afternoon and night of the 10th day of October, 1848, when the judges and clerks of election in said town-

ship counted the votes which had been given on that day in said township, at the state election held on that day. I sat behind the judge who counted the tickets, and examined them with him. I saw every ticket that was in the ballot box opened and counted, except four tickets more than the number of voters names on the poll books, which were not counted. There was no ticket examined and counted, having upon it the names of Alexander Long, Henry Roedter and Edwin L. Armstrong on it, for Representatives to the State Legislature, that did not also have more names than those on it for the same office. The additional names on those tickets were generally those of George E. Pugh and A. N. Peirce. In some few instances, not exceeding twenty, the name of some one of the persons named was erased: where an erasure was visible, another name was, in some instances, substituted, in others not; in all the tickets having more than three names, two of the names were designated as representatives for the first representative district of Hamilton county, and the others as representatives for the second representative district of Hamilton county, except three, where the distinction was not made.

WILLIAM M. ROBB.

Not being able to complete the taking of said depositions, by reason of the non-attendance of the witnesses, we adjourn the further taking of the same till to-morrow, then to be continued at the same place, and between the same hours mentioned in the annexed notice.

Pursuant to the adjournment as above stated, on the 9th day of November, in the year 1848, between the hours of 9 o'clock, A. M., and 6 o'clock P. M., at the office of Samuel Perry, we continued the taking of said depositions as follows, viz :

John B. Warren, of lawful age, being first duly sworn, deposes and says :—

I was one of the judges of the election held on the 10th day of October 1848, in the ninth ward of the city of Cincinnati, and was present at the counting of the ballots after the closing of the polls, and assisted in the counting of the same. Upon nearly all of the ballots containing the names of Alexander Long, Henry Roedter and Edwin L. Armstrong, which were counted at that time, there were also the names of George E. Pugh and Alexander N. Peirce voted for as candidates for representatives for the first district of Hamilton county. Of the ballots counted for Long, Roedter and Armstrong, there were some 20 to 30 which had not the names of Pugh and Peirce upon them.

Messrs. Long, Roedter and Armstrong were designated on the tickets as candidates for representatives for the second district of Hamilton county.

None of the ballots having the names of Long, Roedter and Armstrong on them were rejected by the judges on account of also having

the names of Pugh and Peirce on them, except a few which did not designate the districts for which the candidates were respectively voted for.

J. B. WARREN.

Andrew Giffin, of lawful age, being first duly sworn by me, deposes and says :

I was one of the judges of election at the state election held in the tenth ward in the city of Cincinnati, on the 10th day of October 1848, and at the close of the polls assisted in examining and counting the ballots which were given at that election. I believe I read off all the ballots.

At that election we found, on counting the ballots, that Alexander Long, Henry Roedter and Edwin L. Armstrong were voted for as representatives for the second district of Hamilton county; upon nearly all the ballots upon which they were voted for, there were also the names of George E. Pugh and Alexander N. Peirce, as representatives for the first district of Hamilton county. Upon some of the ballots, I think not exceeding twenty, the names of Pugh and Peirce were erased. None of the ballots containing the names of Long, Roedter and Armstrong were rejected by the judges of the election on account of having on them the names of Pugh and Peirce, but were all counted and duly returned.

ANDREW GIFFIN.

Not being able to complete the taking of said depositions, by reason of the non-attendance of the witnesses, we adjourn the further taking of the same till to-morrow, then to be continued at the same place and between the same hours mentioned in the annexed notice.

November 10th, 1848.—No witnesses being in attendance this day, the further taking of depositions is continued until to-morrow.

November 11th, 1848.—No witnesses being in attendance this day, the further taking of depositions is continued to Monday, the 13th inst.

Pursuant to adjournment as above stated, on the thirteenth day of November, 1848, between the hours of 9 o'clock A. M., and 6 o'clock P. M., at the office of Samuel Perry, we continued the taking of depositions, as follows:

Stephen D. Corbly, of lawful age, being first duly sworn, deposes and says :—

I was one of the judges of election at the state election held on the tenth day of October, 1848, in Anderson township, in the county of Hamilton, and at the close of the polls assisted in examining and counting the ballots which were given at that election.

At that election we found, on counting the ballots, that Alexander Long, Henry Roedter and Edwin L. Armstrong were voted for as representatives for the second district of Hamilton county. Upon all the

ballots upon which they were voted for, there were also the names of George E. Pugh and Alexander N. Peirce, as representatives for the first district of Hamilton county.

None of the ballots containing the names of Long, Roedter and Armstrong were rejected by the judges of the election on account of having on them the names of Pugh and Peirce, but were all counted and duly returned.

S. D. CORBLY.

Isaac Giffin, of lawful age, being first duly sworn deposes and says:

I was one of the judges of the state election held on the tenth day of October, A. D., 1848, in the township of Columbia, in the county of Hamilton, in the State of Ohio. I was present and assisted in counting the ballots which were given at that election, at the close of the election.

At that election we found, on counting the ballots, that Alexander Long, Henry Roedter and Edwin L. Armstrong, were voted for as representatives for the second district of Hamilton county. Upon the greater part of the tickets upon which these gentlemen were voted for, there were also the names of Alexander N. Peirce and George E. Pugh as representatives for the first district of Hamilton county. Upon perhaps about fifty of these ballots, the names of Pugh and Peirce were erased. Every vote for Pugh and Peirce, except one for Pugh, was rejected. None of the ballots for Long, Roedter and Armstrong were rejected by the judges of election on account of having on them the names of Pugh and Peirce, but were all counted and duly returned.

ISAAC GIFFIN.

John Ross, of lawful age, being first duly sworn, deposes and says:

I was one of the judges of election at the state election, held on the tenth day of October, A. D., 1848, in the Northern Precinct of Mill-creek township, in the county of Hamilton in said state. I was present and assisted in counting the ballots which were given at that election, at the close of the election.

At that election we found, on counting the ballots, that Alexander Long, Henry Roedter and Edwin L. Armstrong were voted for as representatives for the second district of Hamilton county. Upon nearly all the ballots upon which these gentlemen were voted for, there were also the names of Alexander N. Peirce and George E. Pugh as representatives for the first district of Hamilton county. Upon not exceeding ten of these ballots, the names of Peirce and Pugh were erased.—The votes for Pugh and Peirce were not returned to the clerk of the court of Common Pleas. None of the ballots containing the names of Long, Roedter and Armstrong were rejected by the judges of election on account of having on them the names of Pugh and Peirce, but were all counted and duly returned.

JOHN ROSS.

Thomas Cooper, of lawful age, being first duly sworn, deposes and says:—

I was one of the judges of the state election held on the tenth day of October, A. D., 1848, in the township of Sycamore, county of Hamilton, State of Ohio. At the close of the election I was present, and assisted in counting the votes given.

Upon counting the ballots, we found that Alexander Long, Henry Roedter and Edwin L. Armstrong were voted for as representatives for the second district of Hamilton county. Upon nearly all the ballots upon which they were voted for, there were also the names of Alexander N. Peirce and George E. Pugh as representatives for the first district of Hamilton county. Upon not exceeding ten of these ballots, the names of Pugh and Peirce were erased. None of the ballots containing the names of Long, Roedter and Armstrong were rejected by the judges of election on account of having the names of Pugh and Peirce on them, but the votes for Pugh and Peirce were not counted, but the votes for Long, Roedter and Armstrong were all counted, and duly returned to the clerk of the court of Common Pleas.

THOMAS COOPER.

Not being able to complete the taking of said depositions, by reason of the non-attendance of witnesses, we adjourn the further taking of the same till to-morrow, then to be continued at the same place, and between the same hours mentioned in the annexed notice.

Pursuant to adjournment as above stated, on the 14th day of November, 1848, between the hours of 9 A. M. and 6 P. M., at the office of Samuel Perry, we continued the taking of said depositions, as follows, viz.

Elias Seward, of lawful age, being first duly sworn, deposes and says:—

I was one of the judges of the state election held on the 10th day of October, 1848, in the township of Springfield, in the county of Hamilton, State of Ohio. At the close of the election I assisted in examining and counting the ballots given.

Upon counting the ballots, we found that Alexander Long, Henry Roedter and Edwin L. Armstrong were voted for as representatives for the second district of Hamilton county. We also found that George E. Pugh had one hundred and eighty-nine votes as representative for the first district of Hamilton county, and Alexander N. Peirce had one hundred and ninety-two votes for representative for the first district of Hamilton county. As a general thing, these votes for Pugh and Peirce were upon the same ballots on which Long, Roedter and Armstrong were voted for. I do not think there were five ballots on which it was otherwise. None of the ballots containing the names of Long, Roedter and Armstrong were rejected by the judges of election on account of having on them the names of Pugh and Peirce, but were all counted and duly returned.

ELIAS SEWARD.

Not being able to complete the taking of said depositions, by reason of the non-attendance of the witnesses, we adjourn the further taking of the same till to-morrow, then to be continued at the same place, and between the same hours mentioned in the annexed notice.

Pursuant to the adjournment as above stated, on the 15th day of November, 1848, between the hours of 9 o'clock A. M., and 6 o'clock P. M., at the office of Samuel Perry, we continued the taking of said depositions, as follows, viz.

Joseph Burgoyne, of lawful age, being first duly sworn, deposes and says:—

I was one of the clerks of the state election held on the 10th day of October, 1848, in the Southern Precinct of Millcreek township, in the county of Hamilton, State of Ohio; at the close of the election I assisted in counting the ballots given.

Upon counting the ballots, we found that Alexander Long, Henry Roedter and Edwin L. Armstrong were voted for as representatives for the second district of Hamilton county. Upon nearly all the ballots upon which they were voted for, there were also the names of Alexander N. Peirce and George E. Pugh as representatives for the first district of Hamilton county. I do not think there were exceeding twenty ballots on which Long, Roedter and Armstrong were voted for, which did not also contain the names of Pugh and Peirce as aforesaid.

None of the ballots for Long, Roedter and Armstrong were rejected by the judges of the election on account of having on them the names of Pugh and Peirce, but were all counted and duly returned.

JOSEPH BURGOWNE.

John L. Miner, of lawful age, being first duly sworn, deposes and says:—

That on the 30th day of October, 1848, I served a copy of the paper marked A, and which I request may be attached to and made part of my deposition, on Henry Roedter, Esq., by leaving the same with his family, at his residence in the city of Cincinnati, county of Hamilton, State of Ohio. I further state that W. E. Bradbury, whose name is signed as contestor to said paper marked A, and also signed as contestor to another paper, marked B; and hereto annexed, was, on the 30th day of October, 1848, an elector of Hamilton county, State of Ohio, residing in the second representative district of said county, and also that Isaac Bates, whose name is subscribed to the paper marked C, and hereto annexed, was, on the said 30th day of October, 1848, also a qualified elector of said county, and state, residing in said second representative district.

JOHN L. MINER.

Not being able to complete the taking of said depositions, by reason of the non-attendance of the witnesses, we adjourn the further taking of the same till to-morrow, then to be continued at the same place and between the same hours mentioned in the annexed notice.

Pursuant to the adjournment as above stated, on the 16th day of November, 1848, between the hours of 9 o'clock A. M., and 6 o'clock P. M., at the office of Samuel Perry, we continued the taking of said depositions as follows, viz.

William Allen, of lawful age, being first duly sworn, deposes and says:—

On the 30th day of October, 1848, I served a copy of the paper hereto annexed, marked C, on Alexander Long, at his residence, in the county of Hamilton, State of Ohio, by delivering the same to him.

WILLIAM ALLEN,

W. C. Thorpe, of lawful age, being first duly sworn, deposes and says:—

On the 30th day of October, 1848, I served a copy of the paper hereto annexed, marked B, on Edwin L. Armstrong, at his residence in the county of Hamilton, State of Ohio, by delivering the same to him.

W. C. THORPE.

We, Samuel Perry and Ebenezer Harrison, Justices of the Peace in and for the county of Hamilton, State of Ohio, do certify, that William M. Robb, John B. Warren, Andrew Giffin, Stephen D. Corbly, Isaac Giffin, John Ross, Thomas Cooper, Elias Seward, Joseph Burgoyne, John L. Miner, William Allen and W. C. Thorpe, were each by one of us sworn to testify the truth, the whole truth, and nothing but the truth; and that the depositions by them respectively subscribed, were reduced to writing by said Samuel Perry, except the depositions of Isaac Giffin, John Ross and Thomas Cooper, which were reduced to writing by Matthew Comstock;—that the taking of said depositions was begun on the 8th day of November, 1848, and was continued from day to day, as above stated, until the 16th day of November, 1848; that all of said depositions were taken at the office of said Samuel Perry, in the city of Cincinnati, county of Hamilton; and were all taken between the hours of 9 o'clock A. M., and 6 o'clock P. M., of the days on which they were respectively taken.

Witness our hands and seals this 16th day of November, 1848.

SAMUEL PERRY, [SEAL.]
Justice of the Peace.

EBENEZER HARRISON, [SEAL.]
Justice of the Peace.

CUYAHOGA FALLS, Oct. 4, 1848.

To the Clerk of the Court of Common Pleas of Summit County, Ohio.

SIR:—I hereby resign my office of Prosecuting Attorney for Summit county, to take effect from and after the 9th day of October, inst.

[Signed]

S. W. McCLURE.

The State of Ohio, Summit County, ss.

I, Lucius J. Peck, clerk of the court of common pleas of said Summit county, do hereby certify that the foregoing is a true copy of the resignation of Samuel W. McClure, as Prosecuting Attorney of Summit county, now remaining on file in my office, and which was filed Oct. 4, 1848.

Attest my signature and the seal of said county, at Akron, this 17th day of January, A. D., 1849.

LUCIUS J. PECK, *Clerk.*

By N. B. STONE, *Deputy.*

CUYAHOGA FALLS, Oct. 4, 1848.

To the Court of Common Pleas of Summit County, Ohio.

This is to inform your honors that I resign my office of Prosecuting Attorney for Summit county, to take effect from and after the 9th day of October, inst.

S. W. McCLURE.

The State of Ohio, Summit County, ss.

I, Lucius J. Peck, clerk of the court of common pleas, within and for the county of Summit, do hereby certify that the foregoing is a true copy of the resignation of S. W. McClure as Prosecutor of Summit County, now remaining on file in my office, and filed Oct. 4, 1848.

Attest my signature and the seal of said court of common pleas, at Akron, this 17th day of January, A. D., 1849.

LUCIUS J. PECK, *Clerk.*

By N. B. STONE, *Deputy.*

PAPERS IN THE CONTEST BETWEEN TRIMBLE AND
JONES FROM CLINTON COUNTY.

SEE RESOLUTION IN JOURNAL.

To the Hon. the House of Representatives of the State of Ohio :

The undersigned being a citizen and an elector of the county of Clinton and State of Ohio, and also having been the opposing candidate against Alanson Jones, Esq., for the office of representative in the General Assembly of the State aforesaid, now in session, prays leave to contest the election and right of said Alanson Jones to a seat as a member of the House of Representatives of this General Assembly, from and for said county of Clinton, by virtue of the annual election holden for the election of members of the General Assembly and other officers in said county of Clinton, on the second Tuesday of October, A. D. 1848, and by virtue of which the said Alanson Jones now holds and claims right to his seat in this General Assembly.

The grounds upon which your petitioner relies in contesting the election and right of the said Alanson Jones to a seat as aforesaid, are,

1st. That during the whole time the said Alanson Jones was a candidate for the office of representative, as aforesaid, from and for said county, he, the said Alanson Jones, was then and there the duly elected and qualified sheriff in and for said county of Clinton, and as such was enjoying all the rights and privileges thereof, upon the day of said election, and for a long time thereafter.

2d. That during the whole day of the said second Tuesday of October, 1848, and during the whole time the said Alanson Jones was being voted for for the office of representative, as aforesaid, from and for said county of Clinton, and for a long time thereafter, he, the said Alanson Jones was then and there the actual and legally elected and qualified sheriff of said county of Clinton and State aforesaid, and that as such he, the said Alanson, was then and there enjoying all the rights and privileges thereof.

Believing, as I do, that the genius and spirit of our representative system of government is more safely guarded by a majority of the people, and being firmly convinced of the fact that most if not all of my fellow citizens who voted for Mr. Jones, voted for him in good faith, supposing him to be eligible as a candidate for the office to which he aspired; and believing, also, that had it occurred to them that Mr. Jones at the time of his election was ineligible as a candidate for their suffrage, they would not have so cast their votes. And believing that

Mr. Jones, with a full knowledge of all the facts as set forth in the premises, is now holding his seat in this General Assembly in palpable violation of the constitution of the State of Ohio, and in opposition to a large majority of the voters of said county, your petitioner requests that your honorable body may at an early day inquire into the grounds of this contest, as set forth in the papers in the cause, and that the said Alanson Jones may be ousted from his seat in this General Assembly ; that the rights of the people may result back for their own decision ; that a new election may be had in said county, so that the citizens thereof may enjoy equal participation in the resulting benefits of legislation in this General Assembly.

The depositions and other evidences taken in this cause, together with a copy of the notice to the said Alanson Jones for taking the same, are herewith transmitted to his Honor, the Speaker of the House of Representatives.

JEHU TRIMBLE.

The State of Ohio, Clinton county, ss.

I, Thomas L. Carothers, clerk of the court of common pleas of said county, do hereby certify that at an election held within and for said county of Clinton, on the second Tuesday of October, in the year of our Lord one thousand eight hundred and forty-eight, Alanson Jones was duly elected a member of the House of Representatives of the State of Ohio, as appears from the poll books of said election now on file in my office.

In testimony whereof I hereto set my hand and the seal of said court of common pleas, at Wilmington, the 7th day of November, Anno Domini 1848.

T. L. CAROTHERS, *Clerk.*

Abstract of votes for representative, given at the annual election held in the several townships in the county of Clinton, in the State of Ohio, on the second Tuesday of October, in the year of our Lord one thousand eight hundred and forty eight.

Names of persons voted for, and the number of votes for each candidate.

Townships.	Alanson Jones.	Jehu Trimble.	John F. Patton.
Union	300	200	128
Chester	125	69	187
Green	98	153	101
Richland	144	123	27
Liberty	30	61	107
Union	174	79	43
Clark	111	53	99
Marion	31	114	26
Washington	73	116	24
Wayne	113	72	12
Jefferson	39	40	41
	1238	1080	795

The State of Ohio, Clinton county, ss.

We, the undersigned, Amos L. Sewell and James Veillin, two justices of the peace within and for the county of Clinton aforesaid, and T. L. Carothers, clerk of the court of common pleas of said county, proceeded to open the poll books of the annual election holden in the several townships in the county aforesaid, at the date aforesaid, and thereupon do certify that agreeably to said poll books Alanson Jones had 1238 votes, Jehu Trimble had 1080 votes, and John F. Patton had 795 votes for representative to the State Legislature for said county.

Given under our hands, this 12th day of October, 1848.

AMOS L. SEWELL, J. P.

JAMES VEILLIN, J. P.

T. L. CAROTHERS, Clerk of Common Pleas.

The State of Ohio, Clinton county, ss.

I, T. L. Carothers, clerk of the court of common pleas in and for the county and State aforesaid, do hereby certify that the within is a correct copy of the abstract of votes given at the annual election held in the several townships in the county of Clinton, in the State aforesaid, on the second Tuesday of October, A. D. 1848, for Representative to the General Assembly of said State, as filed in my office.

In testimony whereof I hereunto set my hand and affix the seal of

the court of common pleas at Wilmington, this 27th day of November,
A. D. 1848.

T. L. CAROTHERS, *Clerk.*

We, Bebee Truesdell and Amos T. Sewall, two justices of the peace in and for the county of Clinton, in the State of Ohio, do hereby certify that pursuant to the notice hereunto annexed, and at the time and place, and before us the said justices therein mentioned, the following named witnesses came, and being of lawful age, and first duly sworn to testify the truth, the whole truth, and nothing but the truth in the premises, testified as follows :

Ethelbert C. Hibben being first duly sworn as aforesaid, deposeth and saith :

That I am acquainted with Alanson Jones, the person who was voted for as a candidate for the office of representative to the General Assembly of the State of Ohio for Clinton county, at the annual election held in said county on the second Tuesday of October, eighteen hundred and forty-eight, and that I personally served upon the said Alanson Jones of said county, at his residence in said county, a copy of notice marked "Document A," to which is appended my certificate, dated at Wilmington, Clinton county, Ohio, Friday, October twenty-sixth, eighteen hundred and forty-eight. Said notice being served as stated in said certificate, on said twenty-sixth of October, eighteen hundred and forty-eight. Said Jones was acting sheriff of said county at the time of said election, and done business after the election as sheriff, as aforesaid. And further, that Jehu Trimble, the contestor of said Jones' election, is an elector of said county, and was an opposing candidate of said Jones for said office of representative of said county, as aforesaid, and that I gave the above mentioned notice for said Trimble.

First question by Mr. Jones. How many candidates were there at this election for the office of representative, and how many votes did each candidate receive ?

Answer. I believe there was three candidates for the office—there might have been some scattering. I do not know the number of votes each received.

ETHELBERT C. HIBBEN.

Thomas L. Carethers being also first duly sworn, as aforesaid, deposeth and saith :

Ques. by the contestor. Was you, on the second Tuesday of October last, the clerk of the court of common pleas of Clinton county, Ohio, and have since been and still the clerk of said court? Are you

acquainted with Alanson Jones, Esq., who was a candidate for the office of representative in the next General Assembly of said State, on said second Tuesday of October? Was he then the sheriff of said county? Was Jehu Trimble, the contestor, then an opposing candidate for said office, an elector of said county and remained such since the election? State all you know on these subjects.

Ans. I was the clerk of the court of common pleas of the county of Clinton, Ohio, on the second Tuesday of October, A. D. 1848, and am still the clerk of said court. In answer to the second question, I know Mr. Alanson Jones, Esq., who was a candidate for the office of representative in the General Assembly of the State of Ohio on the second Tuesday of October last. He was the acting sheriff of said county at the time, and for some days afterwards. In answer to the third question; Jehu Trimble, the contestor, was an opposing candidate for said office at the said election, and is an elector of said county at the time, and still is a resident of the county of Clinton.

Ques. by same. Will you state more particularly your means of knowing that Mr. Jones was the actual sheriff of said county on the second Tuesday of October last? When his term of office commenced, how long it continued, and when it terminated and how?

Ques. I know of Mr. Jones offering property for sale as sheriff, on the 11th day of October last, the day after the second Tuesday of October. Also, Mr. Jones filed in my office a resignation of the office of sheriff on the seventeenth day of October, A. D. 1848, (a copy of the same, marked A, is herewith attached.) In reference to the term of office, on referring to his bond as sheriff, filed in my office, the filing of the bond is the 6th day of November, A. D. 1846, a copy of which is herewith attached, marked B. And further, that he continued, so far as I know, performing the duties of said office of sheriff of said county up to the day of his resignation, on the 17th day of October aforesaid.

Ques. by Alanson Jones. How many candidates for representative were there at the last election in Clinton county, and what number of votes did each candidate receive?

Ans. There were three candidates voted for for the office of representative to the State Legislature of Ohio. Alanson Jones received 1238 votes, Jehu Trimble received 1080 votes, and John F. Patton received 795 votes for same office.

Ques. by same. Was not the vote at that election an unusually full vote for Clinton county, exceeding the vote usually given in the county at the annual election in October?

Ans. From recollection, it was an unusually large one.

T. L. CAROTHERS.

We, the said justices, do further certify that the above testimony was reduced to writing by the said Ethelbert C. Hibben and Thomas L. Carothers, severally, and that the said several witnesses at the said time and place of taking said testimony, subscribed their names to their respective depositions.

In testimony whereof we have hereunto set our hands and seals this 7th day of November, A. D. 1848.

BEBEE TRUESDELL, J. P. [SEAL.]
AMOS L. SEWELL, J. P., [SEAL.]

The State of Ohio, Clinton county, ss.

I, T. L. Carothers, clerk of the court of common pleas, in and for the county and State aforesaid, do hereby certify that Bebee Truesdell and Amos T. Sewell, before whom the within and foregoing depositions were taken, was, at the time of the taking of the same, regular acting justices of the peace of said county, duly commissioned and qualified as such, and that full faith and credit are due to and ought to be given to all their official acts as such.

In testimony whereof I hereunto set my hand and affix the seal of the court of common pleas, at Wilmington, this 7th day of November, A. D. 1848.

T. L. CAROTHERS,
Clerk of Court of Common Pleas.

[A.]

To Alanson Jones, Esq., of Clinton county, Ohio.

DEAR SIR: You are hereby notified that as an elector, and opposing candidate for a seat as a member of the House of Representatives of the next General Assembly, to be holden within and for said State of Ohio, and residing within said county of Clinton, on the second Tuesday of this instant, and being the day of the annual election within said State for the year 1848, and still residing therein and continuing to be an elector as aforesaid, in said county of Clinton, I intend to contest the validity of your election and right to a seat as a member of the House of Representatives of the next General Assembly, to be holden within and for said State of Ohio, as a Representative from and for said county of Clinton, by virtue of the votes given for you at said election, and the declaration of the clerk of the court of common pleas of said county, and the justices of the peace within and for said county, who opened the several poll books of said election, within said county of Clinton, at the office of said clerk, on the 12th day of October, 1848. The point upon which I intend to contest your election and seat as aforesaid, is, that during the whole time you were a candidate for the office of Representative as aforesaid, and during the entire day of said election, and during the time said votes were given to you for Representative, from and for said county of Clinton, in the next General Assembly aforesaid, you then *was the legal and acting Sheriff* in and for said county of Clinton, and therefore, by virtue of the 26th section of the 1st article of the constitution of said State of Ohio, you was not eligible as a candidate for, and have no right

to, as seat in the next General Assembly aforesaid, by virtue of said election.

You are also notified, that Bebee Truesdell and Amos T. Sewell, Esqs., acting justices of the peace in and for said county, will officiate at the taking of depositions to establish and prove the truth of said point, upon which said contest will be made, at the office of said Bebee Truesdell, Esq., in the court house of said county, in the town of Wilmington, between the hours of 9 o'clock A. M. and 6 o'clock P. M. of the 7th day of November next, and if not all taken on that day, will be continued from day to day, within the house aforesaid, until said depositions are all taken.

Respectfully, yours &c.,

JEHU TRIMBLE.

October 27th, 1848.

WILMINGTON, Clinton County, O.,
Friday, October 26, 1848.

This is to certify that I, the undersigned, this day personally served a copy of the foregoing notice upon the aforesaid Alanson Jones, leaving the said copy in the possession of said Jones.

ETHELBERT C. HIBBEN.

The State of Ohio, Clinton County, ss.

I hereby resign the office of Sheriff of Clinton county aforesaid. Given under my hand, at Wilmington, the 17th day of October, A. D. 1848.

ALANSON JONES.

The State of Ohio, Clinton county, ss.

I, T. L. Carothers, clerk of the court of common pleas, in and for the State and county aforesaid, do hereby certify, that the above is a full and correct copy of the resignation of Alanson Jones, as filed in my office.

In testimony whereof I hereunto set my hand and affix the seal of the court of common pleas, at Wilmington, this 7th day November, A. D. 1848.

T. L. CAROTHERS, Clerk.

[B]

Know all men by these presents, that we, Alanson Jones, Joel Harris, W. M. Irvin, Jona. Gaddis, Isaac Strickle, Wm. James Morgan, are held and firmly bound unto the State of Ohio, in the sum of six thousand dollars, for the payment of which well and truly to be made, we do jointly and severally bind ourselves and heirs, firmly by these presents. Sealed with our seals and dated this the 31st day of October, A. D. 1846.

The condition of the above obligation is such that, whereas the said Alanson Jones has been duly elected and commissioned Sheriff of the county of Clinton, Ohio, for the term of two years from and after the 22d day of October, A. D. 1846, according to the provisions of the constitution and laws of the State of Ohio, now if the said Alanson Jones shall faithfully and diligently execute and discharge all and singular the duties appertaining to the said office of Sheriff, then this obligation to be void, otherwise to be and remain in full force and virtue.

ALANSON JONES,
JOEL HARRIS;
W. M. IRVIN,
JONATHAN GADDIS,
ISAAC STRICKLE,
WM. JAS. MORGAN.

[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]
[SEAL.]

Signed and sealed in the presence of Joseph A. Mills.

The State of Ohio, Clinton County, ss.

I, T. L. Carothers, clerk of the court of common pleas of the county and state aforesaid, do hereby certify that the within is a full and correct copy of the bond of Alanson Jones, Sheriff of Clinton county, filed and recorded in my office, which was accepted by the court of common pleas, on the 6th day of November, A. D. 1846.

In testimony whereof I hereunto set my hand and affix the seal of the court of common pleas, at Wilmington, this 7th day of November, A. D. 1848.

T. L. CAROTHERS, *Clerk.*

REPORT

OF THE

SELECT COMMITTEE ON THE SUBJECT OF TEMPERANCE.

IN HOUSE—*March* 21, 1849.

The select committee on the subject of Temperance, to which sundry petitions and memorials on this subject have been referred, would respectfully report:

The number of persons who have memorialised this branch of the legislature on this subject at its present session, is 3700. Of this number, 2554 are petitioners for the repeal of all license laws, and for a penalty to be affixed to the sale of intoxicating liquors, so as to characterise the business as criminal. 849 are petitioners for local laws to the same effect, and 297 are petitioners for the license of the sale of intoxicating liquors. This last class of petitioners state expressly, however, that they are favorable to temperance, and petition for license because they believe the traffic in intoxicating liquors can be best restrained in that way.

As this House has taken final action on the whole subject embraced in these petitions and memorials, your committee would report the same back, and ask to be discharged from their further consideration.

C. N. OLDS, *Chairman*.

REPORT

OF THE

STANDING COMMITTEE ON FINANCE, RELATIVE TO THE THREE PER CENT FUND.

IN HOUSE—~~MARCH~~ 21, 1849.

Mr. Morris from the majority of the Standing Committee on Finance, to whom was committed the "reply of the Auditor of State to House resolution, relative to the three per cent fund," respectfully submits the following report:

Justice requires your committee to state, in the outset, that they have been unable to devote that care and attention to this subject which its importance demands. This has, in a great measure, arisen from the situation of parties in the present General Assembly. Perhaps at no period in the history of legislation in Ohio, has the attendance of members been so strictly enforced as during the present session, or such frequent "calls of the House," and demands for the "yeas and nays." These have necessarily called for an almost uninterrupted attendance of members on the sessions of the House. Your committee, therefore, will be able to do little else than report the facts of this case as they have come to their knowledge.

By the "reply of the Auditor of State," which was referred to this committee, it appears that on the 23d day of March, 1840, the following joint resolution was passed by the General Assembly, to wit:

"Resolved by the General Assembly of the State of Ohio, That the Governor of State, be and he is hereby authorized and directed to procure by special agency or otherwise, a settlement of the claims of the State of Ohio, upon the United States, for the three per cent fund, due upon the proceeds of sales of land in this State, embracing the amount due upon sales that have been withheld since the year 1836; and also for that which it is claimed, has been withheld under the construction of the General Government, in deductions for expenses of surveys, from the dividends of the State, and that the expenses necessarily incurred, be defrayed from his contingent fund, to be reimbursed from the first moneys received from the three per cent fund into the treasury."

This resolution, your committee are advised, was passed in accordance with the desire of the three officers of State, to whom it was known that a considerable sum was due the State, from the United States, on account of this three per cent fund. To pay the expenses of this special agency, the Governor was authorized to draw upon his contingent fund; which that year amounted to the sum of four thousand dollars, for all purposes. As a matter of course the legislature never intended to pay, or did not contemplate paying for this agency any greater sum than could be covered by the contingent fund of the Governor. And no greater sum should have been paid out of the treasury, without a special appropriation by the General Assembly.

It appears by the "reply of the Auditor of State," that "John Brough, Esq., was first appointed special agent under the resolution, for the purpose of making a settlement of the claims of the State for the three per cent fund, and that he received in 1840, the sum of \$14,832 79, and in the year 1841, \$144 15, from the United States on account of this fund." Out of this \$14,832 79, there was paid the sum of \$142 37, for "the expenses of the special agent for the settlement with the United States." This appears by reference to the Auditor's report for 1841. In this instance the resolution was adhered to, to the letter. The expenses being first paid out of the Governor's contingent fund, and then the amount thereof, transferred from the proceeds so recovered to said contingent fund.

Your committee are free to admit that great doubts had been expressed by Auditor Brough, of the State ever being able to present this claim in such a manner as to procure any further sum from the United States. The language used by him, is that he "fears the claim, *though undoubtedly just in its character*, cannot be presented and sustained in such a manner as to insure its payment." In this state of the case, if there was any prospect of a final settlement being attained, it was the duty of the State officers, as your committee conceive, before appointing another agent, to have procured the passage by the legislature, of another resolution, similar to the one above recited. If any particular sum was necessary to have been agreed upon as a compensation for the services of the agent, that sum should have been stated in the resolution, or the Governor have been, by it, invested with full powers to make a contract with the agent.

Your committee have no doubt of the fact, that all the power of the resolution, passed March 23, 1840, was exhausted by the appointment of Mr. Brough. They cannot believe that a simple resolution authorizing the performance of a certain act, shall remain in force and be of the same binding effect, as if it had received all the formalities, in its passage that are requisite in the passage of a law. And yet the resolution of 1840 has been so treated. It is now in as full force and effect as it was in 1840, when Governor Bartley appointed Mr. S. D. King as the agent of the State, to procure a settlement of this fund. This House can readily perceive, if a resolution of this character is to be considered as forever conferring authority upon the Governor to appoint special agents, that whenever representations may be made that there is money due the State on account of a particular fund, agents may be

appointed and paid out of the contingent fund of the Governor. This might lead to very great abuses; and for that reason resolutions authorising the appointment of agents to do particular acts, are considered of no binding effect, or as conferring no authority after the appointment of one agent. This your committee believe to be a well settled principle. But in direct opposition to what your committee conceive would have been right in the premises, Governor M. Bartley, on the 20th January, 1846, entered into the following contract with King :

"EXECUTIVE OFFICE, OHIO,
Columbus, January 20, 1846.

S. D. KING, Esq.—Sir:

Having been informed that you were willing to examine the books and accounts between the United States and the State of Ohio, relative to the three per cent. fund, prior to the year 1840, I herewith transmit to you a power to act in the premises as an Agent for the State of Ohio. I do hereby agree, on behalf of this State, to pay you *twenty per cent.* on all the money you *may show* to be due Ohio, as soon as said sum can be realized by the State, on account of said three per cent. fund, except the small amount which may have fallen due since 1840.

I am, sir, with respect,

Your obedient servant,

M. BARTLEY."

Such is a copy of the contract entered into by Gov. Bartley on the 20th January, 1846. The Governor's letter to King, or rather a copy thereof, empowering him "to act in the premises," is in the hands of your committee, and bears date the same as the above. It will be perceived that the above contract was entered into by Gov. Bartley during the sitting of the Legislature, when he could have easily submitted the matter for the consideration of the General Assembly, and thus have thrown the responsibility on that body, of agreeing to pay what must at any time be considered a large fee. Had the Legislature authorized him to have entered into such a contract, no objection could have been raised to making an appropriation to pay the agent for his services.

On the 14th of July, 1846, King addressed to Gov. Bartley a lengthy letter, principally upon the mode in which he had arrived at the sum due the State upon account of this fund. The first paragraph of this letter is as follows :

"Sir: Immediately after the receipt of your favor of the 20th January, appointing me to make an examination of the three per cent. fund account of your State, I commenced the work, and devoted my

whole time to it, *until completed*. There being nothing on record in the Department going to show some of the principles upon which the previous statements, or more properly estimates, were based, a general revision of the account was made in the office, many years ago, up to the 30th June, 1830 ; but *from my personal knowledge* of the manner in which business was done by the gentleman (now deceased) who had the statement of that account, I had no reliance in its correctness, and there is nothing going to show the rules by which he was guided in making it up."

Thus it appears that in about the space of one hundred and fifty working days, Mr. King "*completed*" this work, for which he was paid the sum of \$13,149 81 ; or about *eighty-eight* dollars per day.

Mr. King concludes his letter to the Governor as follows :

"I cannot conclude this statement of my proceedings, without availing myself of the opportunity it affords of expressing the great obligations I am under to Gov. Corwin for the hearty and most efficient co-operation and aid he has afforded me ; for he has taken every opportunity to give his assistance and advice, and to enforce the views presented to the office in behalf of the State."

A letter was addressed to the Treasurer of this State, from the Treasury Department of the United States, dated on the 27th of January, 1847, stating that "a revised account of the three per cent. fund which has accrued to the State of Ohio from the sales of public lands within her limits, from the 30th June, 1802, to the 31st December, 1845, has been adjusted, and a balance of \$65,749 09 found to be due to her from the United States." The letter also requested the Treasurer "to procure an order from the Auditor for the above sum, in his favor, and transmit it to that office, and the Treasurer of the United States would be directed to forward him a draft for the amount." On the 4th day of February following, Mr. Whitehill wrote to the Comptroller, informing him that "in compliance with his request, he enclosed the draft of the Auditor of State for the \$65,749 09, being the amount of three per cent. fund due the State of Ohio."

This correspondence, it will be noted, took place during the sitting of the Legislature for the session of 1846-7. The appropriation bill of that year, bears date, February 8, 1847. Your committee, therefore, cannot conceive why this matter was not laid before the General Assembly for its action. If Mr. King was entitled to the \$13,149 81, which he afterwards received, the Legislature would, without doubt, have made the appropriation.

It appears that the Auditor of State was requested to draw a draft for the amount of Mr. King's compensation in favor of Mr. King, and the balance be paid to the State Treasury. This was refused by the Auditor, and justly ; because he had no authority so to do. The Au-

ditor in a letter to this committee, says: "It is proper to remark, that previous to issuing the draft in favor of Joseph Whitehill, Treasurer of State, for the sum which had been found to be due to the State, application was made to me to know whether I would not draw in favor of Mr. King for the sum due to him according to the terms of his contract with Gov. Bartley. I refused to do so, not being, as I believed, authorized to pay any part of the money to, or to draw in favor of, any person but the Treasurer of State."

On the 12th of February, 1847, the following letter was addressed to the Treasurer of State:

"TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,

February 12, 1847.

SIR: A warrant has just been issued, requiring the Treasurer of the United States, to pay to you, as Treasurer of the State of Ohio, the sum of \$65,749 09, found to be due to said State, upon a re-adjustment of the sales of public lands within her limits, from the 30th June, 1802, to the 31st December, 1845, to complete the three per cent. fund which accrued to her on the same. And as intimated in my letter of the 27th ultimo, it would be now sent to that office, with directions to remit her draft for said sum forthwith, per mail to you, at Columbus, Ohio, if the Hon. Thomas Corwin, a Senator from Ohio, had not called and asked that it might be retained for a week, as he expects you will be here within that time; but if you shall not come, the Treasurer of the United States will be instructed, at the end thereof, to remit his draft to you, as but for the aforesaid intervention would now be done, your personal attendance not being necessary.

I am respectfully,

Your obedient servant,

JAMES W. McCULLOH,
Comptroller."

To this letter, Mr. Whitehill sent the following reply:

"TREASURER'S OFFICE, OHIO,

Columbus, February 16, 1847.

J. W. McCULLOH—*Dear Sir:*

Yours of the 12th is received, and I hasten to reply. I cannot visit your city at this time, I cannot conceive why Mr. Corwin should want the draft withheld. We are engaged settling with the County Treasurers, and I cannot leave the office. I hope, on the receipt of this, you will forward me the draft.

I am respectfully,

Your obedient servant,

JOS. WHITEHILL,
Treasurer of State."

By some means, or through some solicitations, the Treasurer of the United States, on the 24th day of February, 1847, issued *four separate drafts* for the amount due the state; one of which was for a sum sufficient to cover the amount of King's *twenty per cent.* This last draft, (for \$13,149 98,) was subsequently endorsed by the Treasurer of State as follows: "Pay to the order of R. H. Williamson. Albert A. Bliss, Treasurer of State." Thus was the amount claimed by King paid to him without any appropriation ever having been made for that purpose. No order or bill therefor was drawn by the Auditor of State upon the Treasurer; which this committee understand and believe is the usual and proper mode of transacting business between these two departments of the State government. The transfer of this draft to Williamson, who it appears was the authorized agent of King, was made, as the Auditor in his "Reply" says, in his (the Auditor's) absence from Columbus. Your committee are further advised that the Auditor would not, or did not, consent to any greater payment to King than could be drawn from the contingent fund of the Governor. The payment of money from the treasury, except, (in the language of the constitution,) "in consequence of appropriations made by law," *cannot be too strongly condemned and ought not to be overlooked.* Your committee have no doubt but the Treasurer was much influenced in his course, relative to this matter, by the opinions and advice of older and more experienced gentlemen, as the following letter would seem to warrant:

"WASHINGTON, Feb. 12, 1847.

Gentlemen:—The money due the State of Ohio on her 3 per cent. fund is ready to be paid. The Auditor has sent his draft and the Treasurer his order to receive the whole sum, and the comptroller deems it his duty to send the entire sum in a draft unless otherwise directed.

Mr. King the agent of the State, empowered by Gov. Bartley to get this money, and through whose skill and very great labor, it has alone been made available to the State, is entitled by a special contract under the hand of Gov. Bartley to twenty per cent. on the amount.

Mr. King resides here, is a cripple, and by his business and necessity is confined to the city. He wishes his fees to be paid here. He fears that if the money gets into the Treasury of Ohio, he may be put to great trouble and expense in obtaining the benefit of his contract. But for him, and the very great care and labor he has bestowed on this business, Ohio never would have received a cent of this fund. We suppose he might attach the fund here and subject his claim to a judicial decision, but that he has no wish to do, nor will he take this course, unless he shall be advised that this is his only remedy.

To avoid all difficulty, and above all to fulfil the obligations of our State to the very letter, we propose that the Auditor send a draft to Mr. King for the sum he is entitled to, that is 20 per cent. on the whole amount. This may be enclosed to Gen. Brice, Mr. Whittlesey, Mr. Corwin, or any other person here of the Ohio delegation. Let

another draft for the balance come also in favor of the Treasurer.—When these arrive the old draft can be taken up and these substituted; or, if this course is not approved, let a power of Attorney be sent to Gen. Brice by the Treasurer and Auditor authorizing him to receive the money from the Treasury and pay over to Mr. King the amount of his contract. King will give a receipt on the back of his contract and send to the Treasury of Ohio.

If this is not approved, let the Auditor give a draft to the Treasurer of Ohio, for the amount due King, and let the Treasurer come on here and receive the money and pay King here. We beg leave to add that, in our opinion, justice, good faith and the honor of the State require that Mr. King should be paid *here* and *now*, without further delay or trouble.

Very respectfully,

THOS. CORWIN
JOSEPH VANCE,
ELISHA WHITTLESEY,
B. W. BRICE, JR."

Before the Treasurer would consent to pay to Mr. Williamson, as Mr. King's agent, the compensation agreed to be paid by the Governor, he took from the said King a bond in the sum of twenty-six thousand dollars, with R. H. Williamson, Joseph Vance and Elisha Whittlesey as securities. This bond is dated the 27th February, 1847, and recites the agreement made by the Governor with King, and the services performed, for which King was to receive the 20 per cent., and concludes as follows:

"Now, therefore, the condition of this obligation is such, that if the said Treasurer of the State of Ohio, or his securities shall not suffer, nor sustain any loss, injury, or damage in any wise, growing out of or caused by the payment of the said sum to the said Samuel D. King, then, and in that case, this bond to be void and of non effect; otherwise to be and remain in full force and virtue in law."

Your committee are not prepared to subscribe to the statement of the letter of Messrs. Corwin, Vance, and others, above quoted, that "but for him (Mr. King,) and the very great care and labor he has bestowed on this business, Ohio never would have received a *cent* of this fund." The assertion is too broad. It is hardly to be resumed that what Mr. King accomplished in five, or at most six months, could *never* have been accomplished by any one else; and especially when it is considered that in a letter to Mr. Brough, in May, 1848, Mr. King says:—"While in the general land office, I never had any control, or agency in any way, or made any personal examination, or performed any duty connected with the adjustment and settlement of the Ohio three per cent account." If this statement be true, some one else *might* have performed the services accomplished by Mr. King, and at a less compensation than eighty-eight dollars per day. Again, in a letter to the Auditor of State, under date of 27th February, 1849, Mr. King says that, "prior to being appointed by the Governor, I never

had the least connection, official or otherwise, with the previous adjustments of these accounts." If this be true, your committee are forced to a different conclusion from that of Messrs. Corwin, Vane, Whittlesey and Brice.

Your committee will further state that some twenty pages of closely written matter have been referred to them, coming from this man King, in explanation of his course relative to this fund; and that the greater portion of it was addressed to the auditor, in a letter of the 27th ultimo; in which King takes occasion to review in Billingsgate style, the remarks made by a member of this committee on the 9th of February last, for the purpose, as he expresses it, that the explanations "may be *officially* placed upon the *files* of your (the auditor's) office." With this man your committee can have no controversy. If it had been thought necessary, and had time permitted, he could have been examined under oath, when a different state of facts might have appeared from those he has *volunteered* to give. As the "files" of the Auditor's office are accessible, any one, who may have a desire to read King's tirade of low abuse against a member of this House, for words spoken in debate, can, without doubt, be gratified. A proper estimate can be placed upon his statements, when it is known that he sedulously conceals the fact that R. H. Williamson was a partner with him in this transaction, and received a share of the \$13,149 81, although he devotes nearly a page to the defence of Williamson's character; and when it is further known that he states that "the fee proposed by me (King) and acceded to by Gov. Bartley, was *not an unreasonable one*; and I (he) certainly *would not* have undertaken the work for a *less one*."

Your committee beg the indulgence of this House for even thus briefly referring to the letter of King. They are aware that this is not a proper time or place to defend the member of this House who has been assailed for the course he may have thought proper to pursue in debate. The simple fact that any one is at liberty to have *officially* placed on *file* in the public office of the State, such statements as he may think proper to make, relative to the course pursued by members of the General Assembly, is the only justification your committee need for this digression.

The conclusions to which your committee have arrived from the investigations they have been able to give this subject, are these:

1. The Governor had no power or authority, under the resolution of March 23, 1840, to appoint an agent to procure a settlement of this fund; the power under that resolution having ceased with the appointment of Mr. Brough, and more especially when it is considered that the General Assembly was in session at the time of the appointment of King, to whom the subject could have been referred for its action.

2. That the amount agreed to be paid, and afterwards actually paid to King, was enormous for the services performed.

3. That the Treasurer of State was not justifiable in paying the money to King, as no appropriation for that purpose had been "made by law." The matter should have been laid before the legislature during the session of 1846-7, and an appropriation made therefor.—

In which event Mr. King might have received his money sooner and with much less trouble than was actually the case. The great desire then of Messrs Corwin, Vance and others, "that Mr. King should be paid *here* and *now*, without further delay or trouble," might have been accomplished.

4. That if your committee are wrong in their opinion, (and they feel assured that they are not,) that all power to appoint an agent under the resolution of March 23, 1840, had ceased prior to the appointment of King; they are not mistaken in stating that the Treasurer had no authority to pay King any more than might have been unexpended at the time of payment of the Governor's contingent fund.

The committee will close their report without submitting any resolution for the consideration of this House, as the time has very nearly arrived, when an adjournment of the present General Assembly will take place. Should any future legislature deem it proper to further investigate this matter, which in all probability will be the case, the facts may be easily attained.

All which is respectfully submitted,

B. F. LEITER,
HENRY ROEDTER,
JAS. R. MORRIS.

REPORT

OF THE

MINORITY OF THE STANDING COMMITTEE ON FINANCE, IN RELATION TO THE THREE PER CENT. FUND.

IN HOUSE—*March* 21, 1849.

The minority of the standing committee on Finance, in relation to the three per cent fund received by the State from the sale of her public lands, present to the House the following

R E P O R T.

January 6, 1849, Mr. Morris offered the following resolution, which was adopted :

Resolved, That the Auditor of State be, and he is hereby requested to report to this House the name of the agent appointed by the Governor to receive the three per cent. fund from the Treasurer of the United States, amounting to the sum of \$657,49 09, and to whom the sum of \$13,149 81 was paid as a compensation for said services ; also, a copy of the resolution of the General Assembly under which said contract and appointment was made, and such other matters and facts as will afford full information on the subject.

In pursuance of the above resolution, the Auditor of State made to the House the following report.

Reply of the Auditor of State, to House resolution relative to the three per cent. fund.

AUDITOR OF STATE'S OFFICE,
Columbus, Feb. 3, 1849.

SIR : I have received the following, passed by the House of Representatives on the 6th ultimo :

" Resolved, That the Auditor of State be, and he is hereby requested to report to the House of Representatives the name of the agent of the State appointed by the Governor to receive the three per cent. fund from the Treasurer of the United States, amounting to the sum of \$65,749 09, and to whom the sum of \$13,149 81 was paid as a compensation for said services ; also, a copy of the resolution of the General Assembly under which said contract and appointment were made, and such other facts and matters as will afford full information on the subject."

In answer to said resolution, I have the honor to state, that Samuel D. King, of Washington, D. C., was the agent appointed by the Governor of Ohio, "to examine the books and accounts between the United States and the State of Ohio, relative to the three per cent. fund prior to 1840." I hereto append a copy of the agreement made by the Governor of Ohio with said Samuel D. King, on the 20th of January, 1846 ; also, a copy of the resolution of the General Assembly, passed on the 23d of March, 1840, under which I understand the Special Agent was appointed. There is no copy of the power of attorney referred to in said agreement on file in this office. I believe no copy was retained by the Governor.

It appears that John Brough, Esq., was first appointed special agent under the resolution, for the purpose of making a settlement of the claims of the State for the three per cent. fund, and that he received in 1840 the sum of \$14,832 79, and in the year 1841, \$144 15, from the United States, on account of this fund. Nothing more was received until the adjustment of the account by Mr. King, under the agreement made with the Governor.

Mr. Brough, in his last annual report to the General Assembly, dated on the 3d December, 1844, makes the following statement in relation to this fund :

" The three per cent. fund stands as reported last year. During the last spring, I visited Washington City on my return from New York, in order to procure, if practicable, a final adjustment of the accounts in this fund, between the State and General Government. This I found a matter of utter impracticability. The accounts for the fund accruing on the sales at the Cincinnati Land Office, are still unadjusted, as between the States of Ohio and Indiana, and then final settlement must be a work of great labor. There is, in the United States Treasury, a small amount to our credit, but probably not more

than sufficient to cover our draft on the fund heretofore, which, accruing at the Cincinnati Land Office, was apportioned to this State, but in reality belonged to the State of Indiana. The old claim for deductions made in 1824, as expenses for the surveys of the lands, was again pressed upon the consideration of the Treasury department; but there are so many obstacles in the way, growing out of the mode in which the accounts have been kept, and the destruction of other papers by the burning of the Treasury department, that I fear the claim, though undoubtedly just in its character, cannot be presented and sustained in such a manner as to insure its payment."

The undersigned has no information in relation to the inducements which led the Governor to make the conditional contract with Mr. King, except the facts stated by Mr. Brough in his report of December, 1844.

A letter was received from the Treasury department of the United States, dated on the 27th of January, 1847, stating that "a revised account of the three per cent. fund, which has accrued to the State of Ohio from the sales of public lands within her limits, from the 30th June, 1802, to the 31st December, 1845, has been adjusted, and a balance of \$65,749 09 found to be due to her from the United States."

A draft was accordingly drawn in favor of Jos. Whitehill, Treasurer of State, upon the Treasurer of the United States, for said sum of \$65,749 09. Mr. King claimed that the amount of his compensation, according to the agreement, should be paid to him, and that a draft for that amount should be drawn in his favor, and the balance paid to the State Treasury. This was refused. The Treasurer of the United States afterwards drew a draft for the amount of the twenty per cent., and he also drew drafts for the balance, which was payable to the State according to the contract of the Governor with Mr. King; and the Treasurer of State, believing the claim of Mr. King to be just and legal, transferred to him the draft for said sum of \$13,149 81, in the absence of the undersigned from Columbus, and retained the balance of \$52,599 28, as the proceeds of said draft as stated in the annual report of the Auditor for the year 1847.

Respectfully submitted.

JOHN WOODS.

HON. J. G. BRESLIN, *Speaker of the House.*

EXECUTIVE OFFICE, OHIO,
Columbus, Jan. 20, 1846.

S. D. KING, Esq.

SIR: Having been informed that you were willing to examine the books and accounts between the United States and the State of Ohio, relative to the three per cent. fund prior to the year 1840, I herewith

transmit to you a power to act in the premises as an agent for the State of Ohio. I do hereby agree, on behalf of this State, to pay you *twenty per cent.* on all the money you may show to be due Ohio, as soon as said sum can be realized by the State, on account of said three per cent. fund, except the small amount which may have fallen due since 1840.

I am, sir, with respect,
your obedient servant,
M. BARTLEY.

Resolution providing for the settlement of the claim of the State of Ohio upon the United States, for the three per cent. fund.

Resolved by the General Assembly of the State of Ohio, That the Governor of State, be and he is hereby authorized and directed to procure, by special agency or otherwise, a settlement of the claims of the State of Ohio upon the United States, for the three per cent. fund due upon the proceeds of sales of land in this State, embracing the amount due upon sales that have been withheld since the year 1836; and also, for that which it is claimed, has been withheld under the construction of the General Government, in deductions for expenses of surveys, from the dividends of the State; and that the expenses necessarily incurred, be defrayed from his contingent fund, to be reimbursed from the first moneys received from the three per cent. fund into the treasury.

Resolved, further, That the Governor be, in like manner, directed to procure from the General Land Office, the amount of lands lying between Harris and Fulton's lines in this State, that have been sold by the General Government, and cause the same to be entered for taxation as other new entries, upon the proper duplicates, according to law.

THOMAS J. BUCHANAN,
Speaker of the House of Representatives.
WILLIAM M'LAUGHLIN,
Speaker of the Senate.

March 23, 1840.

The above report shows that the Legislature, by a joint resolution passed in the year 1840, authorized the Governor to "procure by special agency or otherwise, a settlement of the claims of the State of Ohio upon the United States, for the three per cent. fund due upon the proceeds of the sales of land in this State," &c. It also appears from said report, that Mr. Brough, the Auditor of State, in his report to the General Assembly in 1844, said, in speaking of this fund, "that I fear the claim, though undoubtedly just in its character, cannot be

presented and sustained in such a manner as to insure its payment." With the authority in the Governor vested by the above resolution, with the exertions and energy of Mr. Brough that had been made to procure this fund, and with the great doubt and uncertainty as to any more ever being recovered, the Governor entered into the contract on the terms and conditions stated in said report.

Your committee regret that the member who introduced the resolution upon which investigation is had in this case, saw proper to censure the conduct of the Treasurer of State in relation to this transaction.—Instead of there being cause of complaint against this officer, there is just ground of approbation, that he honorably fulfilled the obligation of the state, and with fidelity executed the contract entered into by the authority of the legislature. Your committee think the contract of the Governor a legal one, and that the claim of Mr. King for the twenty per cent, was valid and binding upon the state. The very fact that the legislature adopted the resolution of March 23, 1840, is evidence that some *extraordinary* measure was necessary to secure a settlement with the general government—thus implying that the settlement was a matter of some *difficulty*, for if the settlement could have been made in the *ordinary* manner, as the three per cent fund had theretofore been secured, why pass the resolution?

The resolution gives the Governor full discretion as to how he shall secure this settlement, whether "by special agency or *otherwise*." Presuming that the Governor would act for what he considered the best interest of the state, the legislature left it for him to devise the best means to secure the best results. Did not the Governor comply with both the spirit and letter of the resolution? In the first place, the very efficient Auditor of State (Mr. Brough) was appointed special agent.—He labored faithfully as such agent, (not continuously, but in the manner he thought best for the state) for *four years*, and secured some \$14,000. It appeared probable that there was more yet behind, but his labors for the above period only gave the above result. His report shows that he considered the settlement not perfect, but we submit if it is not a legitimate inference from that report, that it was *extremely doubtful whether* any thing better could ever be accomplished.

It was at this time, and under this state of the facts that the contract with Mr. King was made. Would the Governor have been satisfied in appointing another special agent at an indefinite expense? Past experience had shown that the most efficient special agent that could be appointed, had failed. In this state of the case, an offer was made by Mr. King, to make the attempt to get justice done the state, and he to be paid on the *contingency* of success. If he obtained nothing for the state, he was to get nothing for his labor, and if he succeeded, he was to be paid a certain per centum. If Mr. King had only obtained \$6,000, he would not have received more than day wages for his labor. Now, is it for the state to complain, that he got for her sixty-four thousand dollars, instead of \$5,000? And further, this does not affect the legality of the contract. If the Governor had the *power* to make a contract and pay 5 per cent, he had the power to pay 20 per cent, if he thought the interest of the state demanded it. But suppose

we could for a moment raise a doubt about the *power* of the Governor in making the contract. There can be no doubt but he *supposed* he had the power, and made the contract in *good faith*, supposing he was pledging the faith of the state for its fulfilment. There can be no doubt that Mr. King, in entering into the contract, *believed* he was making it with the State of Ohio. It is not to be presumed that he would labor for months, with the expense of clerk hire, &c. &c., with any other idea than that the contract was a binding one, and would be fulfilled in good faith by the state. He did not suppose that, after he had by his arduous labor, put into the treasury sixty-five thousand dollars, that the state would attempt to back out of its obligations to pay him, on the pretence that the Governor had no power to make such a contract. He certainly could not believe that the great State of Ohio would repudiate her contract after pocketing the proceeds of it. If, therefore, the contract was made in good faith, and acted upon in like good faith, the Treasurer of State was, in equity and good conscience, bound to pay Mr. King the amount of his per centage.

Mr. King, by virtue of his contract, was entitled to his money "*as soon as said sum could be realized by the state.*" He was entitled to it *then*. He had a lien *in honor* upon it. The Secretary of the Treasury of the United States, not dreaming that the state would repudiate her contract, made one of the drafts for precisely 20 per cent, for the convenience of being retained by Mr. King. It was proper for him to have it at *that time*, and if any legislation was necessary, owing to its being an unexpectedly large amount, it should be done subsequently. If the treasurer had refused to pay it, could not Mr. King have compelled its payment? The money was in the hands of an individual who brought it from Washington to be paid into the treasury, and could not Mr. King have *enjoined* the payment of it into the treasury, until his contract with the state was fulfilled. Was it best to refuse to pay it and subject the state to litigation, and what is worse, the reproach of repudiation. But the expense, it is said, was to be paid out of the contingent fund of the Governor;—the legislature did not expect that any such amount would be realized, and that therefore the contingent fund of the Governor would be sufficient to meet all the liability. But it will be seen by the resolution that the expense was in fact to be paid out of the three per cent fund as it was realized, for any sum drawn from the contingent fund was to be "reimbursed from the first moneys received from the three per cent fund into the treasury." The single indication of the legislature, that the expense was to be paid out of the contingent fund, does not take from the Governor the *power* to effect a settlement with the general government "by special agency or otherwise," and of course to bind the state. It is simply to be viewed in the light of a kind of *appropriation* to pay the expenses, and the result only shows that the appropriation was not large enough. If the Governor is authorised to make a contract on behalf of the state, by which money is to be expended, does it render the contract *invalid*, if the legislature fail to make the appropriation to meet it, sufficiently large. The whole history of the case plainly shows that the Governor, in making the contract, and the treasurer, in paying to Mr. King

his per centage, acted in good faith, for the best interest of the state, fulfilled strictly the obligations of honor and Justice, and that their acts deserve and will meet with the approbation of *all honest men*.

The letters and statement from Mr. King, and others, which are herewith appended and made a part of this report, not only show the justness of this contract, and the correctness of the view taken of this matter by your committee, but puts to silence forever, the unjust attacks made by the mover of the resolution, upon the public officers of the State, and the distinguished Senator, Thomas Corwin.

The known integrity, and fidelity to the public interest, of the present Treasurer of State, is too well known and appreciated, to require at our hands any refutation of the abuse that has been heaped upon him by the instigators of this movement.

Your committee have endeavored to present this case in its true light. We desire no concealment. We intend there shall be no misrepresentation. We believe the public good imperiously demands the strictest integrity and fidelity in public servants, and that they should be held to the most rigid accountability for the *smallest* misdemeanor. And while we at all times feel it to be our duty to enforce this rule, we at the same time shall equally regard it our duty to protect the acts and characters of men entrusted with the discharge of public duties, from charges which are false and unfounded.

MILLER PENNINGTON,
GEO. REBER,

Committee.

AUDITOR OF STATE'S OFFICE,

Columbus, March 19, 1849.

SIR: In accordance with your request of the 15th inst., I herewith communicate to you, copies of the letters and papers relative to the three per cent. fund obtained by Mr. King, which are on file in this office, and not previously communicated to the House. Part of these documents have been communicated to me since my answer to the resolution of the House; the others were obtained from the Executive Department and the Treasurer's Office. It is proper to remark, that previous to issuing the draft in favor of Joseph Whitehill, Treasurer of State, for the sum which had been found to be due to the State, application was made to me to know whether I would not draw in favor of Mr. King, for the sum due to him according to the terms of his contract with Gov. Bartley. I refused to do so; not being, as I believed, authorized to pay any part of the money to, or to draw in favor of, any person but the Treasurer of State.

Very respectfully,

JOHN WOODS.

HON. B. F. LEECH,

Chairman of Com. on Finance.

EXECUTIVE OFFICE, COLUMBUS,

November 24, 1846.

SIR: Having been detained from the office the greater part of the time during the last three months, a reply to your letter of the 22d Sept. last has been too long delayed. Some weeks since, I came to the conclusion that one of the State officers would visit Washington on other important business of the State, and that he could take with him authority to receive the balance which may be due Ohio from the General Government on account of the "three per cent. fund." This visit was, however, much delayed by circumstances not under my control.

I hope, sir, the delay will not affect the equity of the claim, or the authenticity of your investigation, so as to cause a postponement of payment, and thereby deprive you of your pay for the intense labor bestowed, and the State of its just claim.

B. W. Brice, Esq., the Adjutant General of this State, goes to Washington with authority to transact with you and the officers of government, all matters pertaining to the three per cent. fund.

I am, sir, with great respect,

Your obedient servant,

M. BARTLEY.

SAMUEL D. KING, Esq.

EXECUTIVE OFFICE, COLUMBUS,

January 20, 1846.

S. D. KING, Esq.—Sir:

The fact having been intimated to me that a balance is due from the treasury of the United States to the State of Ohio, on account of the three per cent. fund, and being anxious, as an officer of the State, to have the accounts with the treasury closed, and that Ohio may receive all which may be due her on account of said three per cent. fund, I, M. Bartley, Governor of the State of Ohio, do hereby authorize and empower S. D. King, Esquire, of Washington City, to investigate the said accounts between the State of Ohio and the General Government, at the General Land Office; and when said accounts shall have been investigated and the balance ascertained, the said S. D. King is required to transmit an abstract of the same to this office.

By the Governor,

M. BARTLEY.

TREASURY DEP., COMPTROLLER'S OFFICE,
February 12, 1847.

SIR: A warrant has just been issued, requiring the Treasurer of the United States to pay to you, as Treasurer of the State of Ohio, the sum of \$65,749 09-100, found to be due to said State upon the readjustment of the sales of public lands within her limits, from the 30th June, 1802, to the 31st December, 1845, to complete the three per cent. fund which accrued to her on the same; and as intimated in my letter of the 27th ultimo, it would now be sent to that office, with directions to remit his draft for said sum forthwith per mail to you at Columbus, Ohio, if the Hon. Thomas Corwin, a Senator from Ohio, had not called and asked that it might be retained for a week, as he expects you will be here within that time, but if you shall not come, the Treasurer of the United States will be instructed at the end thereof, to remit his draft to you, as but for the aforesaid intervention, would now be done, your personal attendance not being necessary.

I am, respectfully,

Your obedient servant,

JAMES W. McCULLOCK,
Comptroller.

To the Treasurer of the State of Ohio, Columbus, O.

WASHINGTON, February 12th, 1847.

GENTLEMEN: The money due the State of Ohio on her three per cent fund, is ready to be paid. The Auditor has sent his draft and the Treasurer his order to receive the whole sum, and the Comptroller deems it his duty to send the entire sum in a draft, unless otherwise directed.

Mr. King, the Agent of the State, empowered by Gov. Bartley to get this money, and through whose skill and very great labor it has alone been made available to the State, is entitled by a special contract under the hand of Gov. Bartley, to twenty per cent. on the amount.

Mr. King is here—resides here—is a cripple, and by his business and necessity, is confined to the city. He wishes his fees to be paid here. He fears that if the money gets into the Treasury of Ohio, he may be put to great trouble and expense in obtaining the benefit of his contract. But for him, and the very great care and labor he has bestowed on this business, Ohio never would have received a cent of this fund. We suppose he might attach the fund here, and subject his claim to a judicial decision; but this he has no wish to do, nor will he take this course, unless he shall be advised that this is his only remedy.

To avoid all difficulty and above all to fulfil the obligations of our State to the letter, we propose that the Auditor send a draft to Mr. King for the sum he is entitled to, that is 20 per cent on the whole amount. This may be enclosed to General Brice, Mr. Whittlesey, Mr. Corwin or any other person here of the Ohio delegation, let another draft for the balance come also in favor of the Treasurer; when these arrive the old draft can be taken up and these substituted, or if this course is not approved, let a power of attorney be sent to General Brice, by the Treasurer and Auditor, authorizing him to receive the money from the Treasury, and pay to Mr. King the amount of his contract; King will give a receipt on the back of his contract and send to the Treasury of Ohio.

If this is not approved, let the Auditor give a draft to the Treasurer of Ohio for the amount due King, and let the Treasurer come on here and receive the money and pay King here. We beg leave to add that in our opinion, justice, good faith and the honor of the State, require that Mr. King should be paid *here* and *now* without further delay or trouble.

Very respectfully,

THOMAS CORWIN,
JOSEPH VANCE,
ELISHA WHITTLESEY,
B. W. BRICE, Jr.

WASHINGTON CITY,

1st. March, 1847.

To the Treasurer of the State of Ohio:

Please pay to Robert H. Williamson, or order the sum of thirteen thousand one hundred and forty-nine dollars and eighty one cents, the same being the twenty per centum upon the amount which has been paid to the State of Ohio, in consequence of the restating and re-examination of the three per cent fund account of Ohio against the United States, made by me as the agent of the said State, in conformity to the stipulation contained in the agreement as signed by the late Governor on the 20th day of January, 1846.

SAMUEL D. KING.

\$13,149 81-100 }

Witness, John N. Ford. }

TREASURY OFFICE, Ohio, Columbus,

March 11th, 1847.

Received of Albert A. Bliss, Treasurer of State, thirteen thousand one hundred and forty-nine dollars eighty one cents in full of the within order.

R. H. WILLIAMSON.

\$13,149 81-100.

WASHINGTON CITY,

14th July, 1846.

Sir:—Immediately after the receipt of your favor of the 20th January, appointing me to make an examination of the three per cent fund account of your State, I commenced the work and devoted my whole time to it until completed. There being nothing on record in the department going to show some of the principles upon which the previous statements or more properly estimates were based, a general revision of the account was made in the office, many years ago, up to the 30th June, 1830; but from my personal knowledge of the manner in which business was done by the gentleman, now deceased, who had the statement of that account, I had no reliance in its correctness, and there is nothing going to show the rules by which he was guided in making it up.

Preliminary to commencing the work, I had a conversation with the then Commissioner of the General Land Office, in explanation of the principles I intended to adopt, as the agent of the State, in stating the account and which I will now briefly notice.

The law grants the per centage on the nett proceeds of the sales of the public lands made after the 30th of June, 1802. The course had been to consider the date of the entry on the first payment, as being the date of sale, and consequently in stating the Ohio account, the payments which had been made subsequent to the 30th June, 1802, upon lands which had been entered or applied for prior to that day, had been excluded from the account. This I contended was erroneous, that the sale was not made until the land was actually purchased by payment being made therefor, and until full payment was made; the entry should be considered as only the first or preliminary step towards making the purchase, that the party entering could at any time refuse to comply with his agreements, and that on such refusal he forfeited all right to the land, and therefore the land was not finally sold when entered, that the United States not only could, as they did frequently, modify the terms upon which the purchase could be made after the entry, but might if they had seen fit, have disposed of their contingent reversionary interest in any of these lands at any time previous to full

payment being made therefor; that the provisions of the relief laws under which parties were authorized to surrender their unpaid lands and to apply the payments made thereon, to other tracts, supported this view; and the very fact that in all cases the moneys paid and forfeited on lands not fully paid for, had been deducted from the proceeds upon which the per centage was calculated, was conclusive upon this point; for if the land was to be considered as sold, when first applied for or entered, then as a matter of course, no matter whether the payments made thereon were subsequently forfeited or not, the State was entitled to her per centage on the money which was thus paid and forfeited. These and other reasons which will readily occur to you, formed the basis of my argument; the Commissioner, Judge Shields, readily saw and at once acknowledged the force of these views, and although he would not then decide the point thus raised, the result was, that I adopted that principle in stating the account with his consent. Full one half of all the money received at the land office at Cincinnati, was for lands situate in Indiana, and upon which as a matter of course, Ohio was not entitled to a per centage, and although that amount had been thus deducted from the total receipts, I had no doubt but that the whole expenses of that office for salaries, commissions and incidental charges, and most probably the forfeitures on Indiana lands, had been deducted from the amount received for the lands sold in the Ohio part of the district. I contended therefore, that the expenses should be properly apportioned according to the receipts for Ohio and Indiana lands, and that the forfeitures on Ohio lands only, should be deducted with the Ohio proportion of expenses from the Ohio receipts. This was fully and conclusively agreed to. I also contended, and it was allowed, that under the relief laws, the moneys previously paid on Indiana lands which were relinquished, and which were transferred to the payment of Ohio lands, should be included in the Ohio receipts. I also claimed that Ohio was entitled to the three per cent upon the nett receipts of the sales of all the lands situate between your former and present northern State boundary, made at the Michigan offices, which amounted to about \$320,000, and I have also claimed the per centage on the proceeds of the Wyandott lands, for so far as the State is concerned, it is immaterial whether the United States agreed to give the Indians one cent per acre, or the amount of sales, inasmuch as the expenses incident to purchasing from the Indians, forms no charge against the State. I was also satisfied, that many charges were brought to bear against the State, as payments made by the receiver, which should not be debited to the fund upon which the per centage was to be calculated. Upon these principles, I have stated the accounts, and in so doing, have necessarily had to examine every payment made by individuals at the Cincinnati office, from the 30th June, 1802, and every item of forfeiture to make the separation between the States, and all the various items of disbursements and charges; also all the receipts, forfeitures and expenses at all the offices since the 30th June, 1802, and up to the 1st. January last, having to carry the account up to the latter period, to make the settlement.

The consequence has been that I have arrived at the following results as being the net amount received, (after deducting salaries, commissions, re-payments at the land offices, forfeitures, and all other expenses of every kind,) and upon which the 3 per cent. is to be calculated, viz :

Ohio Lands sold at Cincinnati Office	\$3,731,727 35
" " Zanesville " 	2,528,799 40
" " Marietta " 	695,845 25
" " Steubenville " 	2,979,216 73
" " Wooster " 	1,869,148 67
" " Chillicothe " 	2,824,162 22
" " Bucyrus Dist." 	2,110,435 43
" " Upper Sandusky Office	1,896,716 98
" " Michigan Offices	319,497 58
" " Marion office	117,115 15
Total	\$19,070,664 77
Three per cent on which would be	\$572,119 94
By the Treasury statement it appears that the payments heretofore made to the State amount to	504,318 81
Leaving due the State on the 1st January, 1846, on her 3 per cent ac't	\$67,801 13

As I went through the examination, Judge Shields, having kindly afforded whatever official aid was necessary for that purpose, every page of my work was re-examined by official persons, detailed by him for that purpose, and its accuracy tested, so that the result is as stated. There will, however, be a difference against the State amounting to not more than \$50 ; and I think not so much growing out of repayments made directly from the Treasury since 1825, and of which I could not get an account in time, and which will have to be deducted from the balance above stated.

To show that the principle I assumed about the date of sale is thought to be correct by the office, I will only state that the Indiana account on the application of the state, was undergoing revision upon the old system, when I raised that question, and that subsequently they made a change in the mode of settling it to correspond with the view I contended for, and have stated it upon the same principles as I pursued.

The absence of the commissioner, and the vacancy in the office by his subsequent appointment to another situation, have prevented a final decision upon the account at his office, and I suppose little can be done until his successor is appointed.

I cannot conclude this statement of my proceedings, without availing myself of the opportunity it affords of expressing the great obli-

tion I am under to Gov. Corwin, for the hearty and most efficient co-operation and aid he has afforded me, for he has taken every opportunity to give his assistance and advice, and to enforce the views presented to the office in behalf of the state.

With very great respect, I have the honor to be,

Your most obedient servant,

SAMUEL D. KING.

His Excellency, M. BARTLEY, Governor of Ohio.

WASHINGTON CITY, 4th May, 1848.

TO JOHN BROUGH, Esq.,

Editor of the Cincinnati Enquirer:

SIR—A friend has just forwarded to me so much of your paper of the 12th ult., as contains your editorial remarks respecting the readjustment of the 3 per cent fund account of your state as made by me. Believing, although, from your character, I am convinced it was unintentional, that they do not exhibit the true merits of the case, and are calculated to do me injustice, I ask the favor of now submitting a few comments thereon, which may tend to explain the subject and place the results of that readjustment upon their true grounds. While in the General Land office, I never had any control or agency in any way, made any personal examination or performed any duty connected with the adjustment and settlement of the Ohio 3 per cent account, and that I am not the person "to whom was committed the labor at the expense of the Government of restating this account," can be readily ascertained if desired. That you are also in error when you think you have "some recollection of him [me] in that capacity in the early history of this transaction," (alluding to the time you were the agent,) is clearly proved by the fact that I left the General Land office, to become a general agent, in the summer of 1837; and never, to the best of my knowledge, saw you, much less had the honor of any conversation with you upon the subject. If I had that pleasure and had been apprised of the nature of your mission, perhaps the result of your labors might have been more satisfactory. To satisfy your desire to know how I became acquainted with the subject, it may be sufficient to say that I had been a clerk, and I hope an observant one, in the Land Office for twenty years prior to my resignation, and that although I never was officially connected in any way with or employed upon the adjustment of the 3 per cent fund accounts of any state; yet that I knew enough to convince me that they were all erroneous, and I hardly hesitate to say that with the exception of the accounts for Ohio, Louisiana, Arkansas and Florida, every account is yet erroneous, and this too without regard to the "surveying expenses," it being unknown

how far Mr. Crawford's decision was carried into effect, as to any of them; neither is there any data, so far as I know, going to show the correctness of your supposition, that during the investigation made in 1841, "the fact came out that Ohio had been receiving three per cent. upon all lands sold in the Cincinnati Land District, when a portion of the lands so sold were in Indiana, to which state the fund should have gone." I was not aware of that circumstance, although it may be so, but the contrary might be inferred from the fact that in making the adjustment of the quarterly accounts of the Receiver, and in apparent compliance with so much of the law as directed the Secretary of the Treasury, upon the settlement of these accounts, to pay the 3 per cent. to the state, the amounts of both the 3 and 2 per cent. funds are stated, and by the several adjustments, made of the accounts of the Receiver at Cincinnati, from the 30th Sept., 1806 to the 30th Dec., 1807, (the only ones I can now refer to,) the 3 per cent. coming to the state, is officially stated to be \$6,337 05; the accounts however show that during that period the total amount received by the receiver was \$316,957 47-100, and the whole expenses allowed for salaries, commissions and contingencies of the office was \$7,888 51, making the net receipts \$309,068 96, and upon which the per centage, if it had been allowed as above stated, would have been \$9,272 06, instead of \$6,337 05, and it is not alledged that at this time any thing was deducted for "surveying." This shows that at that time the state did not receive a per centage on all the monies received, although charged with all the expenses. But that there is an error in this supposition is shown by another fact, and that is, that it was not until the 1st Dec., 1806, that Indiana became entitled to a per centage on the sale of the lands within her limits, and in accordance therewith we find that in the adjustment of the Cincinnati account for the fourth quarter of 1816, a discrimination is made, showing the per centage accruing to Ohio, and the per centage accruing to Indiana; and this discrimination was kept up in the subsequent adjustments. It is certain that Ohio never did receive a single cent of the fund which should have gone to Indiana.

A general re-adjustment was made up to 1830, but there is nothing whatever, so far as I have been able to ascertain, to show the precise principles upon which it was made, and your statement shows that in 1841, "a question was raised by the Treasury Department, whether the rule established by Mr. Crawford (of deducting the surveying expenses) had been actually applied to the fund," and that in order to ascertain it, it was necessary to re-state the account from 1802; and this fact has never yet been ascertained. I never thought it worth while, having no faith in the result of the statement of 1830, so to dissect my revised statements as would enable me to make any comparison with the results therein arrived at. When you came on, your attention being drawn to but a single alledged error, an account was carried up to close of 1840, which I have not examined, but fortunately I know the principles which would then have governed the re-examination of the account to which you allude, for the data for it was partly prepared; although necessarily not used as the basis of re-ad-

justed statements. I submitted to the General Land office, owing to the difference in the principles then first assumed. By those erroneous principles, Ohio would only have obtained a per centage upon the lands entered after the 30th June, 1802, and was charged with all the expenses of the different offices. Under these circumstances, I made the proposition I did, to undertake a thorough reinvestigation upon correct principles, based upon the simple contingency, that if the state did not receive any benefit from those labors, and my intimate knowledge of the subject, she was not to pay a single cent; my chance for compensation depending solely upon the result arrived at, the state, under no circumstances, could lose, but might be a gainer, as she has been by the terms I proposed. When, therefore, as the agent of the state, I commenced the investigation; I assumed certain principles I thought to be correct, and was eventually sustained in them by the General Land office and the Secretary of the Treasury; and until thus established in consequence of my action, they were never proposed by any one or acted upon in making out the accounts for a single state, although since applied to others, some of these I will now mention. In previous adjustments, all payments made upon lands entered prior to the 30th June, 1802, but not fully paid for until after that time, were excluded from the fund upon which the per centage was to be calculated, although all the expenses of the offices, including even the commissions on these very excluded amounts were deducted from the payments on account of subsequent entries, upon which the 3 per cent was calculated. I contended that under the provisions of the credit system, owing to those lands being subject to forfeiture, &c., and because the Government held a contingent reversionary interest, which might become an unincumbered title, and which they could dispose of at any time, no land could be considered as actually sold until the claims of the government were perfectly extinguished, and those of the individual so perfected, by complete payment being made therefor, as to enable him to demand a title. This point was admitted by the commissioner and the Secretary of the Treasury, and, therefore, the state has now received the per centage upon the amounts paid after 30th June, 1802, upon the lands previously entered. Ohio was only entitled to the per centage upon that portion of the lands sold at the Cincinnati office which were situate in Ohio, but it is believed that until I made the discrimination, the whole of the expenses of the Cincinnati office for salaries, commissions and incidental expenses since the 30th June, 1802, had been charged to the Ohio receipts, although about one half of the money received at that office was for Indiana lands. I first showed the impropriety of this charge and made the apportionment of salaries, commissions, &c., from that date, according to the amounts received for the lands in each state, and thus has a large debit against the receipts for Ohio lands reduced about one half.

Where payments had been made under the credit (prior to July 1st, 1820) at the Cincinnati office, for lands in Indiana, which were afterwards relinquished, and the payments transferred, under the relief laws, to the payment of Ohio lands, the State of Ohio had never.

claimed or received her per centage thereon, until I made the investigation and obtained its allowance. Ohio had never claimed, much less been allowed, the percentage upon the large body of lands sold at the Michigan offices, but which, by the change in the position of the line between the two States, was thereby recognized as an acknowledged part of Ohio, until I claimed and had it allowed, after ascertaining the amount of those sales and the proper proportion of expenses incident thereto.

Ohio never claimed nor was allowed her per centage upon any of the public lands sold for the Indians, (Wyandotts,) and the former reserves on the Maumee, until I contended therefor and obtained the allowance. These principles were never so far as I believe assumed by you, although all originate in consequence of receipts prior to 1840, owing, as I suppose, to your being necessarily unacquainted with the details connected with the points involved, or by any one else in behalf of the State, until they were originated by me; and were most certainly entirely new in the adjustment of her account; and it was owing to their correctness being at once acknowledged, as they must be by any one who will examine the subject, that Ohio, and the other States, have received the additional amounts they have.

In conclusion, I must be allowed to say, that the labor of examining every figure and individual account of all sales made in Ohio since 1802, which were necessary to be investigated, was personally performed by me while making this readjustment, and that I did not take any previous statements or reports as my guide in performing the work, while the result of the investigation could not be even conjectured, until the last additions were made, and the balance struck between the total sum to which the State was entitled, and the payments made to her since the 30th June, 1802.

Very respectfully,

Your obedient servant,

SAM'L D. KING.

WASHINGTON CITY, 27th Feb., 1849.

SIR: Having just received, from a gentleman in your State, that portion of the "Statesman" of the 12th inst., which contains the "remarks" of Mr. Morris, of Monroe, in relation to the readjustment of the Ohio three per cent. fund account, as made by me in 1846, it is due not only to myself, but to others, that I should make a few comments thereon, and which I take the liberty of addressing to you, in order that the explanations herein made may be officially placed upon the files of your office, and in so doing shall be brief as possible.

Mr. Morris makes the following statements: "It (alluding to the contract between Gov. Bartley and myself,) does not ask him to collect and pay over, nor to put himself to any further trouble about the

matter than merely *show* what was due. This he could easily and readily do, as he had been, prior to that time, a clerk in the land office. Perhaps he already knew, when the contract was entered into." "This agent of Gov. Bartley was paid thirteen thousand dollars more than Mr. Brough received for similar services, and yet, were all the facts known, it would be ascertained, I have no doubt, that Mr. Brough performed more labor than did Mr. King. Auditor Brough submitted the principles upon which the calculation was to be based, and by which the amount due the State could be arrived at, and placed it upon such ground that nothing remained to be done except to make a calculation according to those principles; a work I undertake to say, that the clerks of the land office were the proper persons to do, and who *did*, in truth and fact, perform the labor." "None of the later letters or reports (of the Auditor) express any doubt or difficulty in relation to the settlement, and so far as we know, Mr. King never turned his hand in this transaction." "In the revision of that account, [the one referred to by the comptroller, in his letter of the 12th Feb., 1847, and which was the one prepared and signed by me as the agent of the State,] I suppose Mr. King had as much to do as I had."

Although I do not wish in the least to detract from any of the praise which may be due to Auditor Brough, yet, without fear of contradiction, I think I can safely say, that instead of Mr. Morris' statements showing the true merits of the case, the following are the facts —

That so far from Mr. Brough having submitted and established the principles upon which the readjustment made by me was based and by which alone the State has received the amount it has, he did not, nor did any one but myself, ever even suggest them, much less get them acknowledged as the true ones. The most important of them are stated in a letter of which a copy is enclosed, and to which I beg leave to refer, which I felt compelled to address to Mr. Brough, on the 4th May, 1848, in consequence of some of his remarks in the Enquirer.— If I understand the great object of Mr. Brough's mission in 1840, it was to procure such a revision of the three per cent. account as would prevent the surveying expenses of the land sold, being charged against the receipts from the sales, and thereby lessen the amount of the net proceeds upon which the per centage was to be calculated, in case they had been so charged in the previous adjustments. Whether or not they were so charged, and if so, to what extent, is not known even now; but as this, with the exception hereafter mentioned, is believed to have been the only point of the least importance connected with the revision sought by his agency, and as much stress has been laid upon these "expenses of surveying," and care seems to have been taken to get up an impression that they alone constituted the difference between the amount of the old adjustments and the readjustment made by me, it will be well to show the utter fallacy of any such assertion.

I have already stated that there are no means of ascertaining at the General Land Office, whether or not in making up the three per cent. account, they had deducted the "survey expenses" from the gross receipts, in ascertaining the net proceeds upon which the three per

centage was given, but that such could not always have been the case, was to be presumed, for from the commencement of the land system up to the 1st July, 1804, the purchasers were required to pay these "expenses of survey," at the rate of \$6 for each section, and \$3 for a half section. (See 5 sec. act of 10th May, 1800.) And because it was believed that the estimates upon which many of these payments had been made to the State were solely based upon the receipts and expenditures of the land offices. But supposing, for argument sake, however much such supposition is unsupported by the facts in the case as far as is known, that these surveying expenses had *always* been improperly charged against the gross receipts on account of sales, let us see what would be the difference to the State, growing out of the correction of such error. And fortunately, we have the official data, which even Mr. Morris will not gainsay, by which to arrive at the maximum of this difference. We know that more than \$3 per mile was never allowed for surveying in Ohio, while many surveys are believed to have been made for less. That only 72 miles surveying was required for an entire township of 23,040 acres; or 2 miles for each section of 640 acres, each line being common to the two sections separated thereby, making, if we allow in every case the maximum charge of \$3 per mile, the "surveying expenses" of each section of 640 acres, to be \$6. The report of the Commissioner of the General Land Office, printed as Senate Document No. 41, of the 1st session of the 30th Congress, shows that from the first sales, up to the 1st January, 1848, (or two years later that the close of the readjustment of the fund account,) the total sales in Ohio amounted to 12,420,342 acres, equal to 19,406 sections of 640 acres each; consequently, the expenses of surveying these 19,406 sections, at \$6 each, would be \$116,436. Therefore, that would be the sum, allowing the above supposition to be correct, which had been improperly charged as "surveying expenses," against the gross receipts, when ascertaining the net proceeds. In other words, this sum is the difference between the amounts of the net proceeds upon which the per centage was to be allowed, according to whether the "surveying expenses" are or are not charged as one of the items of expense to be deducted from the gross receipts, and it was only to the extent of the *three per cent. upon this sum*, that the State was interested in the question of charging or not charging the surveying expenses, and which would be but \$3,493 08; and therefore, under no circumstances whatever, if this had been the only change in the basis of the readjustment, would the State have gained more than that sum by such readjustment. Even this sum, however, is much more than the true amount. The difference of the account has been actually restated, and it had been proved that the expense of survey had been charged against the gross receipts. For it will be perceived, that while this statement shows what would be the per centage on the "surveying expenses" of *all* the lands sold from the commencement of the land sales in New York and Pittsburgh in the last century, to the 1st of January, 1848, yet the amount thus improperly charged against the State could only have been on the quantity sold between the 1st of July, 1804, and the 31st Dec., 1845, or less than \$3,000..

Mr. Brough, by his statement, as quoted in my letter to him of May last, appears to have started another cause of difference, when he states that owing to his agency, "the fact came out that Ohio had been receiving three per cent. upon all lands sold in the Cincinnati land district, when a portion of the lands so sold were in Indiana, to which State the fund should have gone," and which statement seems, in some most unaccountable manner, to be corroborated by the letter from the General Land Office, of the 13th November, 1841, quoted by Mr. Morris, and in which it is stated—"The separation of the sales at Cincinnati, of the lands lying in Ohio, from those in Indiana, is still in train of statement; but being, as you were informed on the 24th of February last, a work of long time and great labor, it progresses slowly, but as fast as circumstances will admit." Now this discovery that Ohio had always been receiving the per centage upon the sales of the lands situate in Indiana portion of the Cincinnati district, and which should have gone to that State, would, if such had been the fact, been a most unfortunate one indeed for Ohio, as she would most certainly have had to be debited with the large amount thus improperly paid to her; but as will be seen by my letter to Mr. Brough before referred to, this supposition was based upon some incomprehensible error.—The monthly returns from Cincinnati, from 30th June, 1802, always discriminated between the receipts for Ohio lands from those in Indiana, while the adjusted quarterly accounts as therein stated show, that Ohio did not receive a per centage upon the net proceeds of all the sales made at the Cincinnati office.

Having thus noticed the difference in the principles controlling those adjustments, we now have to turn to the consideration of the question raised by Mr. Morris, as to the actual personal labor performed by these two agents of the State, in carrying them out and arriving at results. In reference thereto, Mr. Morris scruples not to state that I "could readily and easily" show what was due the State, "as he (I) had been prior to that time a clerk in the land office." "Perhaps he (I) already knew, when the contract was entered into." That Mr. Brough and myself performed "similar services, and yet were all the facts known, it would have been ascertained, no doubt, that Mr. Brough performed more labor than did Mr. King." That the clerks in the land office "in truth and in fact *did* perform the labor." That "Mr. King never turned his hand in this transaction," and "that in the revision of that account I suppose Mr. King had about as much to do as I had." Not knowing Mr. Morris, I am bound to believe that he has based these broad and most unqualified assertions upon some statements made to him; and perhaps by the "gentleman" in this city, whose most decorous and truthful letter he quotes in part; for I cannot conceive that any gentleman holding such an honorable position as one of the legislators of Ohio, would willingly utter such statements without having some voucher for so doing; and therefore, when, as now, I positively assert the falsehood in every particular, of each, all, and every one of these statements, excepting the one as to my having once been a clerk in the land office, I do it without intending to cast any reflection upon, or to impute any improper motives, to Mr. Morris,

simply regretting that he should have allowed himself to become the mouthpiece of some, to me unknown, slanderer, and that before he thought fit thus to assail one who was unknown to him, he had not sought for information which could be relied upon, and sustained if necessary.

After referring to my letter to Mr. Brough to show that prior to being appointed by the Governor, I never had the least connection, official or otherwise, with the previous adjustments of these accounts; I now aver that I do not know, and never yet have been able to ascertain, the trace of any labor having been actually and personally performed by Mr. Brough in examining any of the details upon which alone any adjustment could have been predicated; while as the agent of the State, so far from thinking it sufficient merely to suggest, or even to contend for new principles in the adjustment of the accounts, and leaving it to the Clerks in the General Land Office to apply them to the details of the subject, I believed it my duty to make out and present a regular account, based upon such principles as I thought were just, and should govern the settlement, and that in the performance of that duty, so soon as I was authorized to act by the Governor, I applied for, and obtained the consent of the Commissioner of the General Land Office to make a thorough examination of the whole subject, and did make it myself. That every item and figure connected with the receipts and disbursements of every dollar paid subsequent to the 30th June, 1802, upon account of the sales of the public lands in Ohio, so far as it was in the least necessary for me to do so, was carefully examined and noted by me, and that in so doing I made the discrimination between the moneys received at Cincinnati for lands in Ohio, and those for the Indiana lands, which we have already seen the Commissioner described as a "work of long time and great labor," and made the requisite apportionment of the expenses of the office. The amount of the labor thus performed may in some degree be conjectured from the simple fact that when the whole was completed, the official record of the statements *showing only the quarterly results* thus arrived at, and from which the aggregate result was to be ascertained, covers 46 pages of royal paper. That to expedite the adjustment of the account, the Commissioner was obliging enough at my suggestion, to detail the necessary clerical force to make while the work was progressing, the requisite official examination as to the correctness of the rough memoranda and statements as they were compiled and prepared by me from the monthly and quarterly returns of the district land offices, and that there was not a single amount, however trifling, going to make up any of the results arrived at, which was not ascertained and set down by myself, and thus, in every particular, the whole labor of compiling and preparing these rough statements, and then making out the fair accounts upon which settlement was asked, devolved upon, and was performed by me; the Clerk in the General Land Office only testing the accuracy of those statements.

That so far from knowing the sum which would be due the State, at the time I made the contract with Governor Bartley, it was then

impossible for any human being to possess such knowledge, inasmuch as no one knew the principles in making the adjustment which I should contend for, for some of them had not then even been thought of by myself, much less was it known how far they would be admitted by the Department, and thus be made to govern the re-examination; and that until the very last entry was made in the rough of the statement of the aggregate condensed summary of the total net receipts, by deducting therefrom the amount previously paid the State, I did not know, and had no means of ascertaining what the balance would be, for until such aggregate was thus ascertained, and the deduction made, it was utterly impossible for me to imagine what would be the result of the incessant labor I had devoted to the subject, and I now confess that the result was such as greatly exceeded my most sanguine expectations.

From this statement of fact, I am perfectly willing that Mr. Morris himself may judge whether or not Mr. Brough *performed more labor than I did*; and that he should also decide whose labors have been most advantageous to the State; or, even to say whether in that revision of the account he now supposes "that *he* had as much to do as *I* had." While if, as Mr. Morris supposes, I was acquainted with the sum due the State at the time I was appointed by the Governor in January 1846, it was certainly a most foolish proceeding on my part to let the matter slumber without *my* ever turning *my* hand in the transaction from that time until the payment was made, February, 1847, when I had such strong inducement to procure the prompt payment of that amount to the State, as would naturally result from my having such a share in the amount, and which I could only receive after the State was paid. And it is worthy of remark that while the reinvestigation started by Mr. Brough, and in reference to a change in a single principle, which must have begun in 1840, was "*progressing slowly*" at the close of 1841; its termination became at least so hopeless that the Auditor himself, in subsequent reports to the Legislature was compelled to express his doubts of being able to procure a final adjustment of this final account. How long it would have been before this readjustment thus slowly progressing and gradually ceasing in its motions, would have been completed, even upon the erroneous principles which formed its basis, and the State would have been kept out of the \$2000 or \$3000, which thereby might have been found to have been due to her, I must leave to be ascertained by Mr. Morris himself, for certainly I cannot enlighten him upon such an abstruse point.

I wish that I could here stop in my comments upon those "Remarks," but justice to others whose names have been brought forward by Mr. Morris as being connected with this transaction, requires a few words more.

And first, as to the gentleman whom Mr. Morris's "*gentleman in Washington city*," so politely designates as "the man R. H. Williamson," and who he says when in the land office, "became advised of the \$65,000 being due the state of Ohio." The utter falsity of this statement *slowly* Mr. Williamson (or any person else) was so advised, or that

any such balance was believed to exist, I have already proved, while the character and standing of Mr. W. might, upon investigation, be found to be fully equal in every respect to that of this letter writer, whoever he may be. One thing at least is certain; and that is, that Mr. W. would never be guilty of uttering such gross untruths as are contained in that letter. That Mr. Williamson ever claimed to be the "agent" of the state, or that Governor Corwin ever urged the department to recognize him as such, is equally untrue. I was the sole agent of the state, and the only person who claimed to act as such, and I received a power from the state officers authorizing me to receive the money from the U. S. Treasury, but which power the comptroller saw fit to refuse to recognize. I certainly claimed, and most justly too, that when the payment was to be made, it should be done in such a way, that I might without unnecessary delay, receive the portion I was legally entitled to, and therefore I wanted the draft divided. Although even at that time personally unknown to any of the members from Ohio, except Gov. Corwin and Mr. Delano, yet upon some of the others being apprised of the facts, they also were of opinion that I was not only entitled to the stipulated per centage, but that no obstacles should be thrown in the way of my receiving it, and for their kind interference in this matter in my behalf, my sincere thanks were due, especially to the Hon. Mr. Allen of the Senate, and Governor Vance of the House, and after having refused to divide the draft when requested by Gov. Corwin, it was only in consequence of the influential representations of the Hon. Mr. Allen, as I was informed, that it was eventually done by the treasury officers. It was at my request Mr. Williamson visited Columbus when the drafts were forwarded, and it was as my agent, and in consequence of a regular power from me, that the draft alluded to was made payable to him on my account.

I regret that this subject has also been made the cause of the most unjust insinuations by Mr. Morris, upon the course pursued by Gov. Corwin in the matter, and that that gentleman should have allowed himself to have gone so far as to express his belief that "senator Corwin will be looked upon as having played the game of grab on the Treasury of State, instead of attending to the people's interests, as a senator should; for although the parity of the character of Governor C. is too well established to render it necessary for himself or any of his friends to notice or defend him from any such attacks as these, come they from whatever source they may, yet inasmuch as my knowledge of the facts must be recognized as being superior to the surmises of even the Hon. Mr. Morris himself, it is nothing but proper that I should merely state the circumstances by which Gov. Corwin became in any way connected with my reinvestigation of this account, and leave the slander itself to sink into oblivion from the weight of its own grossness.

When I first thought of applying for the agency in this matter, I was, I believe, personally unacquainted, even by sight, with a single member from Ohio, but stated the subject to a friend, and expressed a wish to procure the appointment. He mentioned the subject to Gov.

Corwin and afterwards introduced me to him. Upon the representation then made, and being satisfied that under no circumstances could the state lose anything by employing me upon the terms proposed, he consented to write to Gov. Bartley, advising my appointment, and when, under that appointment, I had made out the account, and the principles thereon assumed were sanctioned by the Secretary of the Treasury, he used his influence to prevent unnecessary delay, which would otherwise have occurred in the comptroller's office in the revision of the account as passed by the general land office, and for these important services he not only became entitled to my warmest thanks, but merits those of all interested in the finances of Ohio, instead of being made the mark for unfounded insinuations and abuse. That his action was solely and entirely prompted by what he thought was the true interest of his state, cannot be doubted, as he could have no other motive, for I was a perfect stranger to him, and he had not then, nor has he had at any time, the *least pecuniary* or *private interest* in the matter. The result of that reinvestigation neither did, nor will affect his private interests one iota more than those of any other citizen of the state, while I assert that if it had not been for this action upon his part, the state would never have received anything like the amount she has obtained, inasmuch as it has already been shown that even if the reinvestigation commenced in 1840 had ever been completed, it could not have been the means of the state obtaining more than between \$2000 or 3000 over the amount which had been previously paid her, and therefore, if the state has received any benefit from the payment made to her in 1847, it was in consequence almost entirely, of my intimate knowledge of the details involved in the settlement of that account, and of my labor in preparing it, and of the interest which Gov. Corwin and others took in the subject.

Nor should it be forgotten in considering this matter, that that was an old and complicated account, running back for upwards of forty years; that while the labor of making the re-examination was fully as great as if an account had never been stated, and the result depended almost entirely upon the establishment by me of new principles of adjustment; the compensation was entirely a contingent one, and that the risk to be run was solely upon my side, as I was only to receive a portion of whatever the state might gain in consequence of my knowledge of the subject, and the labor I should devote to it; as it resulted, the operation was beneficial to both parties, and certainly the one most benefitted should be the last to complain of the result of the contract. Under these circumstances the fee proposed by me, and acceded to by Gov. Bartley, was not an unreasonable one; I certainly would not have undertaken the work for a less one. Having thus briefly noticed some of the "remarks," I will close by expressing my belief that if I was now the agent of the state to attend to other matters within my knowledge, I could secure her another and equally large amount, at least I would be perfectly willing to undertake the necessary investi-

gations, and do the labor which would be involved thereby, upon being assured of receiving as my fee any excess over \$60,000, which might be the result thereof.

Very respectfully sir,

Your ob't servant,

SAMUEL D. KING.

JOHN WOODS, Esq., Auditor &c. Columbus, Ohio.

REPORT

OF THE

SELECT COMMITTEE,

To whom was referred the petition of sundry citizens of the state, praying the Legislature to call a convention to take the incipient steps towards the dissolution of the Union.

Th select committee to which was referred the petition of sundry citizens and residents in the counties of Portage and Stark, praying the legislature to call a convention of the people of Ohio, to concert measures for effecting a speedy and peaceable secession of this state from the Union, for certain reasons therein specified, beg leave to submit the following

REPORT:

Your committee has examined, with impartial care, the reasons urged for so important and extraordinary a demand, at the hands of this legislature, and find them altogether insufficient and unsatisfactory.

There will be found, on examination, but little doubt, as to the abstract right of this general assembly to make the recommendation prayed for. It is true, this legislature has, of itself, no power under the state constitution, to alter the relations of the state to the other members of the national confederacy. It is an act not within the scope and sphere of its legislative functions. It is a prerogative of sovereign power, which the people of the state have never delegated, and which still remains with them. But the legislature, composed of the chosen representatives of the people of the state, is the organized expression of their state sovereignty; and a recommendation from it to its constituents, in favor of any action on their part, looking to the defence and preservation of their political and civil rights, as an independent and sovereign power, if founded upon commanding reasons, would be, not only proper, but of high and solemn authority. It would amount, however, simply to a recommendation, to be pursued or disregarded, as the people themselves might deem best.

It is also clear, that emergencies in our public history might well arise, which would make such a recommendation, on the part of the legislature to the people, not only eminently fitting, but an act of solemn and imperious duty. That the union of these states, and the action of the general government, which springs from it, might become so intolerably unjust and oppressive, as to justify its dissolution at every lawful hazard, is not an impossible case. Absolute and blind submission to the tyranny of arbitrary power, or the oppressive usurpations of a government that has forgotten its allegiance to the will and interests of the people that created it, is not an American idea.

It belongs to the people of the state to calculate the advantages and disadvantages of the federal Union. Having once entered into a mutual compact for a joint government, good faith requires a strict fulfillment of all its stipulations, so far as compatible with the higher interests of popular liberty and morality. But no man, nor people, can be bound to do any thing tyrannical or wrong. A voluntary compact to assist in the commission of crime, is certainly no justification of the act. And when, either by a fair construction of the provisions of the constitution, or by the repeated usurpations of the federal government, the union becomes an instrument of wrong and oppression, beyond the reach of other remedy; when its longer continuance becomes inconsistent with the rights and happiness of the people—destructive of liberty and morality—its repudiation and overthrow will have become both a duty and a necessity. Every consideration that can actuate men not to become slaves; every motive of interest, honor, pride, and ambition; the sense of religious duty, and the spirit of enlightened patriotism—summon us to the solemn and holy work of revolution and reform.

In view of a possible contingency like this, the existence of our state governments, is one of the fortunate facts in the theory and practical operation of our political system. They form, at once, the surest bulwarks against the encroachments of arbitrary power, and the most efficient and convenient instruments for the restoration of popular rights and sovereignty. This idea was a cherished one with the enlightened sages and patriots, who laid the foundations and built the frame-work of our political institutions. It is the highest duty of their successors to preserve it forever fresh in their remembrance.

Your committee has already expressed its opinion that the reasons urged by the petitioners, do not justify their demands. It does not believe that any satisfactory reasons can be presented in favor of a dissolution of the Union. It will not yield to any one in its attachment to our present constitution and form of Government, because it believes them to be in the highest degree favorable to the material, intellectual and moral growth of the people. It is because the Union is the best *means* for the attainment of these great ends, that it deserves our affection and reverence. There is a sentiment, sometimes urged upon us, which exalts the Union, for its own sake and as a final end, without reference to the principles upon which it is founded or the purposes it is designed to accomplish. Those who entertain it subor-

dinate all other ideas to that of the Union, and denounce as treason, every instance in which the Union is made secondary to the objects for which that Union was formed. This sentiment is to be resisted on all occasions and at every hazard. The surest way to discredit the Union, is to put it above inquiry, and magnify it at the expense of those great interests and principles which it was made to promote. The surest way to entrench it impregably in the affections of the people, is to base the necessity of its existence upon its evident fitness to protect them in their rights, and to promote their happiness. Let it make its daily appeal to their reason and the highest impulses of their nature, by a constant and beneficent display of its energy, in the cultivation of peace, the defence of weakness, the prevention and punishment of wrong, the establishment of justice, the vindication of labor and the promotion of liberty, and it will need no noisy praise nor declamatory eulogy. If it be treason to detest a Government or a Union of States, founded for the protection of fraud and the perpetuation of oppression, and formed as a league against the successful assertion of the principles of liberty and equality; then is it also treason to love and cherish a Government or a Union framed to protect the weak against the strong, to suppress tyranny and establish the principles of a just and humane democracy. Certainly such treason to tyranny is allegiance to God.

The reasons urged by the petitioners in this case in favor of a dissolution of the Union, are founded altogether upon the existence and continuance of slavery in several of the confederated States. The main positions taken are these two:

1st. That a political Union of free and slave States, on any terms for common objects under a common government, necessarily involves the former in the guilty responsibility of those who are permitted to oppress and enslave their fellows in the latter.

2d. That the terms of the political union of these States, as contained in the federal constitution, expressly involve the free States in a voluntary support of the institution of slavery within the other States.

Under the first head, it is argued, a mere association of the free with the slave States, though for purposes entirely foreign from the support of slavery in the latter, necessarily involves the former in the guilt and disgrace of that institution, because it gives their countenance and sanction to the system, and throws over it the shield of respectability. It is insisted that no distinction is to be made between a criminal and his crime, both being equally deserving of hatred and reprobation, and that the best way to reform, is to denounce and to destroy. This reasoning is not altogether original or new. It was fashionable as far back as the days of the Scribes and Pharisees, who rebuked the Redeemer for associating with publicans and sinners, and separated themselves from all their erring brethren, as unclean, saying "stand aside, for I am holier than thou."

The character of a political union is not to be determined by that of those who have established it; but by the nature of the purposes which they have avowed. And the responsibilities of each of its parties, is to be ascertained by his own course under it, and not by

that of the other. Saints and sinners may properly unite, provided the object of their union be worthy; and if each party faithfully strives to fulfil the common design, so far from being discreditable to the virtue of the one, it is, as far as it goes, an atonement for the faults of the other. It is a very sublimated virtue which would require its possessor to become a hermit, in order to preserve it. And whoever should undertake to reform the world by separating from it, would be far more apt to be suspected of a desire to prevent the observation of his own, than to cure the faults of his neighbor. The several states of this confederacy, are distinct individualities. Each is responsible solely for its own political and social qualities and habits. If they unite, the character of their union can be determined alone by its objects and conditions. If these are worthy, it will elevate and improve them both. If they are not, then they are each degraded; not by the acts of the other, but by its own.

If the mere fact of union, makes the free states responsible for slavery in the slave states, then they are also responsible for all the political inequalities and social wrongs that exist in all; for the injustice, fraud, wrong, violence, and outrage, that characterized, to a greater or less extent, the social condition of each. Where should the dividing line be drawn? What degree of social and political perfection entitles a community to the fellowship of another?

But if the principle is correct, it ought to be applied to individual action. It will then become wrong for one who professes to be governed by a sense of moral obligation, to associate, for any length of time, or for any purpose whatever, with one who is, in any respect, an habitual moral delinquent. It will be equally wrong, for any two of the latter description, to hold communion together, even for the purpose of reformation. It needs but a statement of such a consequence, to demonstrate the fallacy of the principle.

But it is said, that the terms of the federal constitution—the bond of our national union—expressly involve the free states in a voluntary and criminal support of the institution of slavery.

The idea that the constitution was framed as a protecting shield for human slavery, and is maintained as its defence against the spreading and now formidable tide of free opinion, has been industriously inculcated in certain of our political schools. A few plausible watch-words—certain skilful but fallacious appeals to popular fears and prejudices—and the artful mismanagement of some of the best and most powerful impulses of the popular mind, have enabled the teachers of this doctrine, for a long time, to control and fetter public opinion. But the error of habit, education, prejudice, and blinded interest, is dissolving before the touchstone of truth. The public mind is becoming aroused to independent investigation, and the spell of charmed words and phrases, is weakening to dissolution. The time when the people could be cheated into submission to the grossest and most iniquitous usurpations, under the specious guise of abiding by the compromises of the constitution, or of consenting to injury, disgrace, and wrong, under the pretence of respecting the character of their ancestors, has already passed. A careful and earnest study of the spirit and lan-

guage of the great charter of our national existence is, at last, convincing the people of the free states, that the framers of the constitution were sincere and intelligent in their professed devotion to the liberty of man, and that they, themselves, were actually free men, and not slaves.

Your committee regards the constitution of the United States, as what it professes to be, a great charter of individual and national freedom—worthy its illustrious parentage and the great confederacy which it has blessed and magnified. It may be searched in vain for a principle hostile to human liberty. It no where establishes any political or civil distinction between individuals or races, on any account whatever. All who are born or live under its protection are perfectly equal in its sight. It is no respecter of persons, and carries out, in this regard, to the full extent, the pure idea of democratic equality. It no where denies to any individual a single one of his natural rights. It no where sanctions or authorizes their deprivation by another. It protects slavery against the rightful influences of the spirit of liberty no where—not more in Virginia than in Russia or Brazil. It confers upon the government which it creates no power in favor of despotism or oppression. If it has not given to that government absolute and arbitrary power to break the yoke of tyranny, and to emancipate the oppressed over all the world, it was because it was jealous of the abuse of authority so unlimited and supreme. The same jealousy has with sedulous care withheld from that government any power or discretion to deprive the meanest individual in the land of the most insignificant of his rights. All the power conferred upon it is expressly limited to the protection and preservation of those rights, equally to all, without exception. So far from guaranteeing the continuance of slavery any where, or for any time, the whole of its power actually delegated must be used against every form of slavery and inequality, whenever it can be brought, by the terms of the grant, to bear upon them. It is instinct with the spirit of liberty. Every line and sentence is an utterance of freedom. That it does not strike off the fetters of every bondman wherever it is known, is owing not to any defect in its principles, but solely to the limitation of its jurisdiction. It does not annihilate slavery in Carolina for the same reason that it does not prevent despotism in Turkey, because it does not take effect, as to that matter, within the jurisdiction of either. It operates in an entirely different plane of political action. But wherever it does act as the exclusive representative of the national principles of the confederacy, it diffuses the law of universal political equality.

The constitution of the Union is a delegation of powers. The government which it establishes, by an admitted principle of construction, is permitted to exercise no authority, except what is expressly conferred or necessary to the exercise of that which is. If any power has been vested in it, to encourage and protect a system in utter hostility to the very idea of human rights—a power inconsistent with the true principle of all government and entirely contrary to that of any worth to be called free—the burden lies upon those who make the discreditable claim to point out the terms of the grant. Let us see the

letter of the bloody bond, if any such there be. It is not necessary to show that it is not forbidden to use its functions in behalf of slavery. It must be positively and expressly shown that it has been laid under the plainest obligation to wield its influence against the principles of freedom before the contrary presumption can be removed.

But the framers of the constitution have taken jealous care not to be misunderstood. They have guarded against all doubt, and by the most express and binding language have pledged the government of their creation, to the full and complete protection of the personal and political rights of every rational being within the limits of its jurisdiction, have forbidden to it, in the most imperative phrases, any infringement of the absolute natural rights that belong equally to all men.

The very preamble of the constitution declares that it was established "to form a more perfect union, establish *justice*, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the *blessings of liberty*."

According to the commentary of certain modern expounders of this intelligible language it should read, "to perpetuate the feeling of disunion, legalize injustice, insure domestic discontent, provide a lasting source of common danger, promote the pleasure of the rich and pampered few at the expense of the oppressed and laboring mass, and secure the curse and shame of slavery."

The body of the instrument faithfully carries out the pledges of the preamble, and is utterly irreconcilable with the glosses and interpolations of the defenders of slavery. Its provisions apply to all alike. They neither create, protect, nor sanction any distinction between persons whatever. Their basis is one of the broadest equality between all who are to be affected by them; and so far as the powers conferred by them upon the government extend, they are in active opposition to every thing anti-democratic, expressly repudiating all the civil and political distinctions in the unequal governments of the old world and proceeding constantly upon the supposition of universal political equality. It not only confers its equal protection upon all persons, but it recognizes all as equally entitled to its favors. Every resident, so far as its action is concerned, has a birth right in the privileges of citizenship, and, with the single exception of foreign birth, there is not one who is not constitutionally competent to administer the functions of its highest office. It imposes no civil or political disability on a single soul; it sanctions none imposed by any other authority.

The framers of the constitution were not content with an express enumeration of the powers conferred upon the government. They took care to guard against the increase of power by construction, and fixed certain great land marks of principle, to guide and govern its action.—It established barriers by which the fundamental rights of personal liberty and security, inseparable from human nature, should be forever secured against its assaults.

For this purpose it is declared that, "The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebel-

lion or invasion, the public safety may require it." *Const., Art. 1, Sec. 9.*

That "no bill of attainder or *ex post facto* law shall be passed."—

Same sec.

That "no title of nobility shall be granted by the United States."—

Same sec.

And for fear these restrictions might not prove sufficient to prevent the government from encroaching upon personal rights, the most explicit and authoritative guarantees were added, by way of solemn amendment.

It was declared, that,

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances." *1st am.*

And that,

"The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated." *4th am.*

That "no person shall be deprived of *life, liberty or property*, without due process of law." *5th am.*

And finally, that,

"The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people." *9th am.*

These reservations are absolute and without exception, and apply to all persons, without discrimination. They effectually protect every individual within the jurisdiction of the constitution, from the exercise of arbitrary power on the part of the general government, and entirely exclude the idea that it was any part of the design of the constitution to authorize or sanction the destruction or infringement of the right of personal liberty. Nothing can be more clear or certain, that as far as its powers extend, it was the intention that they should operate to cherish and protect those natural and indefeasible rights that belong equally to all men.

There are some other provisions of the constitution, commonly, though loosely denominated "compromises," by which it is supposed, the national government, and through it the people of the free states, are pledged to the support and protection of slavery. These have been subjected to such a liberal construction, as not only to involve the people of the free states in a compact to perpetuate slavery within the slave states, but to establish and strengthen it everywhere under the jurisdiction of the general government, and make it a national institution.

Your committee utterly denies that there are any provisions, imposing upon the people of this state, any such responsibility, either for the continuance of slavery within any of the states, or its establishment elsewhere.

It is true that slavery exists within several of the states, legalized, so far as such an outrage upon human nature and human rights can be, by the forms of legislation. But it is solely by state laws, for

whose existence and continuance the people of the particular state alone, are responsible, and which the people of no other state, or of all the other states together, can neither modify nor repeal.

The constitution of the Union no where sanctions or approves it. It no where guarantees its continuance or perpetuity, or pledges the government in any way to promote its interest. It is true it confers no power upon that government to interfere, by active interposition, to destroy or alter the institution; and it is only in this negative way that it is, in any sense, pledged to let it alone, just, as by the ordinary implications of international comity, or it may be by the express stipulations of a solemn treaty, it may be rightfully pledged not to interfere with any of the oppressions, permitted by the government of Spain or Brazil, or any of the cruelties of Russia or Turkey. As to matters, with regard to which the general government has been entrusted with no powers, and over which all control has been reserved to the States, as in this very case, the whole people of the United States, constituting one nation, and the people of the several States are perfectly distinct, and their respective political organizations—the general government on the one hand, and the state governments on the other—are perfectly independent and foreign.

It would be quite as reasonable to say that the people of this State are responsible for every murder and robbery committed in Kentucky, because the constitution confers no power upon the general government to prevent or punish those crimes committed within that State, as to say, that they are responsible for slavery there, because the general government has no constitutional power to abolish it. So, too, it would be as just to say that the people of this State are pledged to afford humanity and protection to murder and robbery in another State, because the general government has no power to provide for their punishment, as to say that they are under any obligation to support slavery in the slave states, because they are not at liberty to legislate it out of existence.

The first of the provisions to which allusion has been made, is that which includes "three fifths of all other persons" with the "whole number of free persons" as the basis of enumeration for the apportionment of Representatives in Congress among the several states. It is readily admitted that this is a constitutional recognition of the existence in the states, of others than free persons. But it contains no sanction or approval, and does not pledge, in the slightest degree, the influence of the government to its continuance. Neither does it confer any special favor on account of it. On the contrary, it sets the seal of national disapprobation upon the disfranchisement of any portion of the people, by allowing to the states that permit it a diminished representation, on that account. The representation of the slave states is curtailed by a subtraction of two-fifths of their enslaved populations, from what it would be were their whole people free.

Your committee does not think this provision the best that could have been devised for the purpose. Its practical operation has proved in the history of the government, to have been inimical to the interests of free principles, by allowing to a class a greater representation than

its number entitles it to. A better substitute would be, a provision which should make the basis of enumeration for representative purposes commensurate with the right of suffrage under the laws of the state. This would reward each state, with influence, in proportion as it gave effect to the principle of political equality, and punish it, with loss of power, in proportion as it confined political rights to less than the whole. Still there is nothing in the provision as it stands, which can, with any fairness, be construed into a recognition of the principle of slavery, or an approval of its existence, much less a pledge of its continuance.

Another provision, supposed to involve the people of the free states in the support of slavery, is that which declares that

"No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due."—*Art. 1, Sec. 9.*

No clause of the constitution has given rise to more contradictory opinions than this. It is clear to your committee, that no power of legislation was intended to be, or is actually conveyed by it to the general government. It simply defines certain rights and obligations between each state and the citizens of the other states, respectively, but gives to Congress no power to further secure those rights, or enforce those obligations. There is certainly no express grant of such power, and there appears to be neither necessity nor room for any implication to that effect.

The supreme court of the United States has also denied to the legislatures of the several states, the right to legislate upon the subject of this clause. It is supposed to be self-executing, giving to any person, to whom, under the laws of his state, labor or service may be due, the right to reclaim a fugitive in another state, provided he can do so without a breach of the peace. It is admitted, that while the state is bound to interpose no obstacle to the assertion of this claim, neither is it under obligations to aid it in any degree whatever. And a farther consequence is, that if the citizens of the free states choose, on their individual responsibility, to obstruct or defeat the claim to a fugitive laborer, there is no constitutional penalty that can be visited upon them,—there is no authority in the general or state governments, which can prevent or restrain their interference.

Assuming this clause to refer to slaves escaped from their servitude, and putting the claim of the pursuing master in the most favorable aspect, the people of the free states, and their state and national governments are absolved from all active interference in his behalf. The controversy is left to the decision of the fugitive and his pursuer, to be determined, so far as the latter is concerned, without any violation of the public peace, leaving the former in possession of all those natural rights and legal defences, as to the use of private force in self-protection, by which nature and society permit the individual to secure his life, his liberty and his property against a violent and unprovoked trespass.

And the admission that any legislation is contemplated by the clause in question, either on the part of the general or the state government, is equally fatal to the pretension which has been set up. That each state legislature has the right to define the rights and obligations of its constituents under this clause, and provide for their protection and enforcement, your committee considers clear. The only legislation presupposed is state legislation, and it is evidently to that, that the claim defined in the clause makes its appeal.

The provision under consideration imposes upon the authorities of the state (by the assumption upon which we are proceeding) to deliver up a person escaping into its jurisdiction, owing labor or service under the laws of the state from which he fled, on claim of the party to whom such service or labor may be due. But the clear implication is, that each state has the right to provide the mode in which that claim shall be presented, the processes through which it shall be perfected, the proof upon which it shall be substantiated, and the tribunal before whom it shall be prosecuted.

And a careful execution of the constitutional provision in question, construed with that due regard to human liberty enjoined by the spirit of our institutions, will reveal that it does not cover the case it is supposed to have been framed expressly to meet. Your committee does deny that the insertion of this clause in the constitution, grew out of a discussion of the reclamation of fugitive slaves; but insists at the same time, that express care was taken that it should not describe that case. The language used carefully avoids any allusion to slavery, though the most apt and probable phrase would have been the word itself.—And it covers other cases—that of master and servant—master and apprentice, &c., by an apt description. No distinction of color is hinted at, and the idea of enforcing a claim of property in men, is most guardedly excluded: an idea which is the very essence of the slave relation.

The claim here guarantied, is between persons—not of a person to a thing; it is a claim founded on an obligation recognising of course, the legal capacity of the party from whom it is due, to contract and sustain it, as also that reciprocity of consideration, by which alone any obligation can be supported. There can be nothing due from a slave to his master—except it may be forgiveness—because he is not legally capable of owing. The mutuality of benefit, without which there can be no duty, does not exist in a relation that consults the interest of one party alone. It is as improper to speak of the labor or service due from a slave to his master, as of the labor or service due from a horse to his driver, or from any other piece of property to its owner. Property is not susceptible, in the nature of things, of being placed or considered in any relation of obligation. The act which changes a man into a slave, takes from him, in the eye of the law, that quality which alone makes him capable of sustaining an obligation. How then can this clause be applied to the enforcement of a claim of property in men?

The guarded language of this clause, so carefully excluding the idea of a claim of property in men, was not accidental. We would be

bound to presume that it was chosen with consideration, and we know from actual history, that the word "servitude" as it stood in the original draft, was stricken out on motion of a delegate in the convention that formed the constitution (Gov. Randolph of Virginia,) and "service" inserted in its stead, on the express ground that the "former was thought to express the *condition* of slaves, and the latter the *obligation* of free persons."

Your committee, therefore, confidently conclude that there is no ground for the supposition that the terms of the constitution involve the people of the free states in any sanction or support of slavery. If the clauses already considered furnish no evidence of it, it will be admitted that none can be found elsewhere.

So far from the general government being under constitutional obligation to favor or foster the interests of human slavery, it is bound to employ all the powers that have been delegated to it, in promotion of the broadest principles of equal liberty. It only needs that it shall be administered by men imbued with the principles of its framers, and alive to the spirit of the age, to become a most powerful and influential minister of progressive liberty. The moral influence of its example and recommendation, penetrating into every neighborhood in the union, would do more to disseminate healthful ideas, and stimulate a sound democratic public opinion, than any other agency at our command. To become so potent an instrument of good, it is only necessary that it shall be administered with faithful adherence to its own principles and spirit.

Were it true, however, as is claimed by the petitioners, that the constitution did extend the sanction and protection of its "compromises" over the institution of slavery, it would not necessarily follow that it was the duty of the people of Ohio, to dissolve the Union.—We are not bound to separate ourselves, at all hazards, from every unjust and imperfect government, because we cannot live in solitude. Neither are we under obligation to seek reform on all occasions, through the extremity of revolution. It is only when governments become intolerably oppressive and can be reformed in no better way—only when submission becomes more disastrous to individual growth than resistance—that it becomes right or proper to overthrow them.

In the supposed case, there would be no such necessity. The constitution of the United States provides a certain and feasible method for its own amendment. Any of its unjust features can be removed, so soon as public opinion becomes sufficiently enlightened and active to effect it. And our remaining in the Union, exerting all our political and moral influence under the government, will tend more strongly to affect public opinion around us, favorably, than any attempt at secession. While we remain in the Union with slave States, we can reach them through a thousand avenues of political association, of business and social relations, which otherwise would be closed against us. It is true, we are more powerfully acted upon ourselves, by the adverse influences of their vitiated public sentiment. But we cannot expect or desire to escape the contamination of error, while it is the only condition of our existence here, or of the gradual, but certain

intellectual and moral growth of the whole world. While we remain united with the unhappy communities that are cursed by the crime of slavery, our common interests add wonderful might to the contrasted prosperity of free states and give us influence attainable in no other way. We need be solicitous only that we maintain a faithful struggle against error and wrong, and seek, by every means, to conform our organic political constitutions to the strictest requirements of right.

A separation from the Union on anti-slavery grounds would be regarded as an act of hostility to all the south. We should cut ourselves off, not only from slave holders, but that much larger body of southerners who own no slaves, and whose interests, so directly at war with the institutions of slavery, must, if we cultivate friendly and intimate relations, soon bring them into the closest social and political sympathy with us. It would at once erect a wall of distrust between us and them and lead to irritation, division of interests, misunderstandings and perhaps hostile collisions. It might possibly hasten the downfall of slavery, but it would most likely take place through the violence and disorder of insurrection and civil war.

It is in the highest degree probable that it would postpone indefinitely the hope of peaceful emancipation.

Your committee forbears to dilate upon the advantages to the individual states and to the world at large, of our magnificent confederation. It is in its relations to the great question of popular liberty, that its consideration is most worthy, as it is most to be cherished, because it is, in our hands, a sublime trust, for the promotion of the cause of human rights, whenever its legislation, its example, its recommendation or its patronage can be felt.

Your committee have thought it proper, both on account of the importance of the subject and the evident sincerity of the petitioners, to give this extended reply to their request; but for the reasons just given, wish to be discharged from its further consideration.

NORTON S. TOWNSHEND.

PETITION

To the General Assembly of the State of Ohio, in Senate and House of Representatives convened:

The undersigned, legal voters, and others over the age of fifteen years, residents in the counties of Portage and Stark, earnestly pray you to call a convention of the people of Ohio, to concert measures for effecting a speedy and peaceable secession of this State from the Union, for some or all of the following reasons:

1. Because the connection of the State of Ohio with the Union is *voluntary*, and a free state cannot be voluntarily associated in political relations with slave states, without giving the countenance and sanction of that voluntary association to the *slavery* of those slave states, on the principle that a state, as well as a man, "is known by the company it keeps," and therefore Ohio, keeping company with the southern states, *is responsible for their slavery*; and while in the union with the slave states, is, by means of that very connection, one of the slave states.

2. Because by continuing in the Union the 2,000,000 of people in this state are throwing the shield of their respectability over 300,000 southern slaveholders, as a screen from the rebuke due their horrible crimes, on the principle that respectability goes with numbers; that a nation is more respectable than a state, and that a rebuke that would be *felt*, if permitted to come down on the heads of *three hundred thousand*, would be *thrown away* if taken off from their shoulders and divided among *two millions* and three hundred thousand.

3. Because the people of this state are bound to express, in the strongest manner possible, their abhorrence of the crimes of these slaveholders, and to bear the most solemn testimony in their power, not only against these crimes, but also against the *criminals* who commit them; and in no way can they make this abhorrence so manifest, and this testimony so emphatic and startling, as by saying to these criminals, "stand by yourselves—come not near us—we'll have nothing to do with you."

4. Because the people of Ohio cannot remain in the Union, *even for a single hour*, only as in compliance with the agreement which they have made to aid the slaveholder, and which they solemnly and by oath renew to him every year, they pay him power in the general government as a premium for every slave he shall kidnap, breed, or hold; only as they make their soil his hunting ground, and thrust back into the hell of slavery, whence they have escaped, his runaway victims; and only as they pledge themselves to pour the leaden death into the vitals of those poor victims when, in the agony of their despair, they resist the master's authority and rise to assert their liberty.

5. Because this Union was formed for the express purpose of keeping as slaves all who then were slaves; that they should be thus kept, and that the northern states should help keep them, were made the

very conditions of the Union. They are its conditions now. The Union, consequently, rests upon slavery as its corner stone. The 3,000,000 of slaves constitute the bond which binds it together. It is cemented with their blood. Its mighty fabric of government is reared upon their mangled limbs and broken bodies; and, therefore, the people of Ohio cannot be *partners* in the Union, without being chargeable before the world and before heaven with being slaveholders for slave-owners.

6. Because, had it not been for the Union, slavery would long since have been dead. The Union has been the sole means of keeping it in existence till now. It has been that which has raised it from the abject condition in which it lay, as a humble suppliant, at the *formation* of the Union, to its present growth of kingly power and haughty pride. It has been that which has increased the number of its victims from 700,000 to over 3,000,000; and therefore, Ohio, as a part of the Union, *has done part of the deed and consented to all the rest.*

7. Because slavery is the sum of crimes, and *American* slavery is "the vilest that ever saw the sun;" and the Union was formed for the mutual protection of the parties united, and therefore, since the people of Ohio cannot remain in the Union without protecting the south—without protecting slaveholders—without protecting slavery, they cannot remain in it without protecting the most heinous system of wickedness that ever existed.

8. Because, for the above reasons, Ohio never had a right to *join* the Union. The very act of coming into it was a mistake and a crime; and each hour of continuing in it, from that day to this, has been but a repetition of that crime, only growing continually greater with the lapse of time and the growing light; and therefore her continuance in it *now*, after so many long years of experience, and under the blazing light of the noon of the nineteenth century is that original crime heightened into a very colossus of evil, and increased to that magnitude of enormity, that words cannot express the great reality.

9. Because the senators and representatives from this State cannot take their seats in Congress by the side of the slaveholders from the south, without recognizing those tyrants as fit to make laws for Ohio freemen; and, therefore, the people of this State, who send those senators and representatives, cannot remain in the Union with those slaveholders without also recognizing them as fit to make their laws.

10. Because the Union, having *nationalized* slavery, and made it *American*, has involved the people of Ohio, as well as of the other northern states, not only in the guilt but also in the *disgrace* of that execrable system; has exposed them to the charge of inconsistency, and hypocrisy; has subjected them to the taunts and sneers of the despots of Europe; has caused their very name to become a by-word and a hissing, and themselves to be made the laughing stock even of barbarians; and in no way can they relieve themselves from this deep and merited disgrace, so long as they continue in the Union which has brought it upon them.

11. Because the people of Ohio cannot possibly be in a governmental union with the south, without being subjected to a heavy

pecuniary tax, every year, in support of slavery—slavery being essentially a *bankrupt* system.

12. Because, finally, the people of Ohio clearly possess the *right* to leave the Union. The Union is only a means, and if the people of Ohio think the ends that ought to be attained by it not attained, or if they think the ends that are attained by it bad ends, they have the right to *come out* of it, and set up a *new* government. This *right* is distinctly asserted in the declaration of independence, and is founded in the very nature of state sovereignty; by exercising it Ohio would interfere with the rights of no portion of the confederacy, not even with those of the south.

LEGAL VOTERS.

Joseph Treat,
Joseph B. Jerome,
Oliver Bow,
Solon Baker,
Joseph Heighton
H. M. Case,
Augustus Case,
Erastus Case,
Thomas C. Heighton,
Harlin Case
Henry C. Jerome,
C. W. Ensign,
Abram Baker,
O. S. Churchill,
Horace White,
Caldwell Anderson,
Horace Case,
Wesley Stanford,
Milton Moore,
A. Bancroft,
R. H. Merriman,

J. K. Kendrick,
Truman Case,
H. W. White,
William Stedman,
William H. Harrington,
Richard Osborn
Lewis M. Bloomfield,
Joseph Clickman,
E. T. Wickersham,
John T. Prise,
Clark Upson,
Warren Britton,
Jacob Stauffer,
Lanson Spees,
Frederick Dye,
H. D. Smalley
J. F. Smalley,
A. Redfield,
R. F. Clover,
D. Smalley,
Thomas Price, jr.—42.

OTHERS.

S. A. Case,
B. M. Heighton,
George Case,
George W. Paine,
Dick Quirok,
Rolin Handel,
Harriet Case,
Laura M. Ensign,
Mary Case,
Emeline Andrews,

Kezia Andrews,
Sophia Jerome,
Hannah Heighton,
Eliza S. Tagg,
Jane M. Jerome,
Sarah Heighton,
Mary E. Chapman,
Olive C. Heighton,
Alvin Bancroft,
Henry H. Ward,

Crawford Kendrick,
Madison Bancroft,
Abigail Smith,
Mary Stanford,
Phebe Bancroft,
B. O. Shirtliff,
Annis Ward,
L. E. Harrington,
John Stauffer,

Edward Marshall,
Selina Hickman,
Lucinda Maxwell,
Milton Maxwell,
Harriet Spees,
Nancy B. Stedman,
Fanny Die,
Sophronia Smalley,
Cordelia S. L. Smalley.—38.

REPORT
OF THE
JOINT SELECT COMMITTEE ON STANDING RULES FOR
THE GOVERNMENT OF BOTH BRANCHES.

The Joint Select Committee, to which was assigned the duty of preparing joint rules for the government of the two Houses, now report and recommend the adoption of the following:

RESOLUTION:

Resolved by the Senate and House of Representatives, That the following be adopted as the Joint Standing Rules for the government of the present General Assembly of the State of Ohio:

1. When the business requires the attendance of the Senate in the Representatives' Hall, they with their Clerk, shall be conducted within the bar and there seated; and the Speaker of the Senate shall take a seat in the Speaker's chair on the right of the Speaker of the House of Representatives.
2. All messages shall be conveyed by the Sergeant-at-Arms of the House from which they are sent; and in the case of the absence or inability of the Sergeant-at-Arms, then by such person as the Speaker may designate for that purpose.
3. When a message shall be sent by either House to the other, it shall be immediately announced at the bar of the House to which it is sent, by the door-keeper, and shall be, by the bearer, delivered to the Clerk of the other branch, at his desk, who shall read the same to the House to which it belongs.
4. After a bill or joint resolution has passed both Houses, and amendments made by either House may be pending, it shall not be in order for either House to postpone such bill or resolution beyond the session; but all differences between the two Houses relative to amendments, may be submitted to committees of conference.
5. In all cases of difference between the two Houses relative to amendments, the order shall be to insist in the first instance, before adhering; and the first adherence, by either House, shall preclude a committee of conference.
6. Committees of conference shall be appointed when any disagreement of opinion shall exist between the two Houses, which com-

mittee shall report the result of their deliberations to their respective Houses.

7. When the committees of conference of the two Houses shall disagree, other committees may be appointed; and if either of the Houses shall disagree to any report of a committee of conference, such House shall forthwith notify the other of such disagreement, and request another committee of conference; and thereupon other committees shall be appointed.

8. When a bill or joint resolution shall have passed either House, notice thereof shall be forthwith communicated to the other House, by message.

9. When a bill shall be reported to either House, advice thereof shall be given to the other House; but no notice of the presentation or reference of petitions, memorials or remonstrances, or of the appointment of committees, shall be given.

10. When a bill or joint resolution which shall have been passed in one House, is rejected in the other, or postponed beyond the session, notice thereof shall be given to the other House in which the same may have passed.

After a bill shall have passed both Houses, it shall be enrolled by the Clerk of the House in which it originated.

12. When bills or joint resolutions are enrolled, they shall be examined by a joint committee of two members from each House, to be appointed a standing committee for that purpose, whose duty it shall be to compare the enrolled with the engrossed bills and resolutions passed by the two Houses, correct any clerical errors which may be discovered, and report forthwith to their respective Houses.

13. After examination and report, each act and joint resolution shall be signed in their respective Houses; first by the Speaker of the House of Representatives, and then by the Speaker of the Senate.

14. Joint resolutions temporary in their character, shall not be enrolled, signed by the Speakers, nor published with the laws. The following, amongst others, are of this character: Resolutions for going into elections, for printing extra copies, for the appointment of joint select committees, calling upon public officers for information, furnishing copies of laws or reports, allowing claims.

15. The clerk of the Senate shall attach to each act and joint resolution signed by the Speakers, the date of the last action of either House thereon, and then deliver it to a member of the committee of enrollment on the part of the Senate, who shall deposite the same in the office of the Secretary of State, and take his receipt therefor, which receipt shall be filed with the papers of the Senate.

16. When the two Houses shall meet to proceed by joint ballot, to any election, the Speaker of the Senate shall preside so far as to declare the officers to be elected, the result of each balloting, and the name of the person elected.

17. Each House in joint meeting, shall be governed by the same rules of order that govern them in their separate Houses, and be attended by their respective Sergeant-at-Arms.

18. No person shall be declared elected to any office, who shall not have received a majority of all the votes of the members present, and voting; and each paper put in the ballot box shall be counted a vote, unless the number of papers shall exceed the number of members voting, in which case it shall be declared there is no election.

19. It shall be the duty of the Speaker of the Senate, in all elections by joint ballot, or otherwise, after the votes have been collected, to call on the members present, whether they have voted, if not, to come forward and vote, and charge the members accordingly.

20. All elections by joint ballot shall be conducted singly, only one officer being voted for at each balloting.

21. The Sergeant-at-Arms of the respective Houses shall discharge the ordinary duties of Door-keepers until otherwise directed.

22. When the two Houses shall meet to proceed by joint ballot to any election, no person shall be permitted to remain within the bar, excepting the Members, Clerks and their assistants, Sergeants-at-Arms and their assistants, and the regular reporters for the newspapers.

23. When a bill shall have passed in either House, and be sent to the other for concurrence, the accompanying documents shall be transmitted with such bills.

The Committee will now proceed to state wherein these rules differ from the joint rules adopted for the government of the two Houses at the late session.

1st. Rules, 11, 22, 24, 25 and 26, being rules in which the subject of printing is mentioned, are stricken out.

2d. Rules 12 and 13; remain unchanged but are numbered 11 and 12.

3d. Rule 14 is here numbered 13, the word bill stricken out in the first line and act inserted; and the words at the end directing the Speaker of the Senate, are omitted, for a reason mentioned below.

4th. Rule 14 is designed as a substitute for a rule adopted last session, and not to be found in the pamphlet copy of the rules. It is number 27, and may be found in appendix to House Journal, 1847-8, page 57, and at page 251, of the appendix to the Senate Journal for the same year.

5th. Rule 15 is altered by making it the duty of the Clerk of the Senate to attach to each act and joint resolution when enrolled, and signed, the date of the last action of either House thereon. For the reasons of this change the Committee refers to the report of the Judiciary Committee of the Senate upon the validity of the election of Judge Key, and found in Senate Journal, 1847-8, page 668.

6th. Rule 20, is entirely changed. As that rule stood at former sessions, it was difficult to tell whether a quorum had voted; and if the two vacancies in the same office occurred at different periods not elapsed on the day of the election, it was impossible, but by the arbitrary will of the Speaker, to tell to which of the two dates the persons elected should be respectively assigned.

7th. The 22d rule herewith reported, and which excludes strangers from within the bar of the House whilst elections by ballot are

going on, seems necessary. The tellers are not unfrequently personally unacquainted with many of the members, and it will be wise to guard against the possibility of mistake in this particular, before any occur.

8th. The words "by message" are added to the eighth rule.

STANDING RULES

OF THE

HOUSE OF REPRESENTATIVES.

TOUCHING THE DUTIES OF SPEAKER.

1. The Speaker shall take the Chair, every day, precisely at the hour to which the House shall have adjourned, on the preceding day; shall immediately call the members to order; and on the appearance of a quorum, shall cause the journal of the preceding day to be read.

2. He shall preserve order and decorum; may speak to points of order in preference to other members, rising from his seat for that purpose; and shall decide questions of order, subject to an appeal to the House by any two members; on which appeal, no member shall speak more than once, unless by leave of the House.

3. When a motion is made and seconded, it shall be stated by the Speaker; or, being in writing, shall be read audibly to the House, by the Speaker or Clerk, before debate.

4. Questions shall be distinctly put, in this form: "You who are of opinion, (as the question may be,) say aye"—and after the affirmative voice is expressed—"those of a contrary opinion, say no." If the Speaker doubt, or a division be called for, the House shall divide; those in the affirmative of the question first rising from their seats, and afterwards, those of the negative; and the Speaker shall determine, by count, telling the number.

5. The Speaker shall examine and correct the Journal, before it is read; he shall have a general direction of the Hall; he shall have a right to name any member to perform the duties of the Chair; but such substitution shall not extend beyond an adjournment.

6. All committees shall be appointed by the Speaker, unless otherwise directed by the House, in which case, they shall be appointed by a vote of the House, and the person or persons having the highest number of votes, shall be considered elected.

7. The Speaker shall appoint, at the commencement of each session, the following standing committees, each to consist of five mem-

bers, except the committee on Enrollment, which shall consist of two members:

On Privileges and Elections; on the Judiciary; on Finance; on Claims; on Public Works; on Public Lands; on Roads and Highways; on Railroads and Turnpikes; on Common Schools and School Lands; on Universities, Colleges and Academies; on Medical Societies and Colleges; on the Militia; on Agriculture; on Manufactures and Commerce; on Corporations; on the Currency; on Benevolent Institutions; on the Penitentiary; on the Library; on State Buildings; on New Counties; on Retrenchment; on Salaries and Fees of Public Officers; on Public Printing; on Federal Relations; on Unfinished Business; on Enrollment.

8. All acts, addresses, and joint resolutions, shall be signed by the Speaker; and all writs, warrants, and subpoenas, issued by order of the House, shall be under his hand and seal, attested by the Clerk.

9. In case of any disturbance or disorderly conduct, in the galleries or lobby, the Speaker or Chairman of the committee of the Whole House, shall have power to order the same to be cleared.

10. Reporters for newspapers, or stenographers, wishing to take down debates, may be admitted, by the Speaker, within the bar of the House; he shall assign such places to them as shall not interfere with the convenience of the House.

ORDER OF BUSINESS FOR THE DAY.

11. As soon as the Journal is read, the Speaker shall call for the presentation of petitions; and every petition or memorial shall be referred, of course on motion, without putting a question for that purpose, unless the reference is objected to by a member at the time such petition or memorial is presented. The petitions having been received and disposed of, bills for their second reading shall be in order; then for their third reading; then notices of intention to ask leave to introduce bills, and the introduction of bills on leave, shall be severally in order; the reports of standing committees, and then of select committees, shall be called for and disposed of; and the above business shall not be in order at any other time, unless by leave of the House.

OF DECORUM AND DEBATE.

12. When any member is about to make a motion, or to speak in debate, he shall rise from his seat, and respectfully address himself to "Mr. Speaker"—and shall confine himself to the question under debate, and avoid personality.

13. When two or more members happen to rise at once, the Speaker shall name the member who is first to speak.

14. If any member, in speaking, or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order; the member called to order shall take his seat, if required to do so by the Speaker, until the question of order is decided; and the House, if

appealed to, shall decide the question of order, without debate; if the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he shall not be permitted to proceed, in case any member object, without leave of the House.

15. If a member call another to order, for words spoken in debate, he shall, if required by the Speaker, reduce to writing the language used by the member which he deemed out of order.

16. Every motion shall be reduced to writing, if the Speaker or a member require it; and any member may call for a statement of the question, which the Speaker may give sitting.

17. After a motion is stated by the Speaker, or read by the Clerk, it shall be deemed to be in possession of the House, but may be withdrawn at any time before a decision or amendment.

18. Whilst the Speaker or Chairman is putting any question, or addressing the House, none shall walk across the hall, or whilst a member is speaking, shall pass between him and the Chair; no member, or other person, shall remain at the Clerk's table, while the yeas and nays are being called, or ballots being counted.

19. No member shall speak more than twice to the same question, unless by leave of the House.

20. Every member present, when the question is put, shall vote, unless the House, for special reasons, excuse him; a request to be excused from voting, shall not be in order, unless made before the House divides, or before the call of the yeas and nays is commenced; and any member requesting to be excused from voting, may make a brief verbal statement of the reasons for making such request, and the question shall then be taken, without further debate.

21. Any member may excuse himself from serving on any committee, if, at the time of making such excuse, he be a member of three other committees; all reports of committees and communications to the House, shall be read by the Clerk, without a motion, unless the reading be dispensed with by the House.

22. No committee shall sit during the sitting of the House, unless by special leave.

23. The several standing and select committees of the House shall have leave to report, by bill or otherwise; and it shall be in order for the committee on Enrollment to report at any time when the House is not otherwise engaged.

24. When a question is under debate, no motion shall be received but to adjourn, to lie on the table, for the previous question, to take a recess, to proceed to the orders of the day, to postpone to a day certain, to commit, to amend, and to postpone indefinitely; which several motions shall have precedents of each other in the order in which they are arranged; and no motion to postpone to a day certain, or postpone indefinitely, being decided, shall be again allowed at the same stage of the bill or proposition.

25. When a motion is made to recommit to a committee of the whole House, or to any standing committee, it shall not be in order to amend such motion by substituting another committee; but if any other committee be suggested, the motion shall be first put upon the

committee first named, and afterwards on the committee or committee suggested, in the order in which they are named; but a motion to refer to the committee of the whole House, to a standing committee, or a select committee, shall have precedence in the order here named.

26. All questions, whether in committee or House, except privileged questions, shall be put in the order in which they are made except in filling blanks, the largest sum and the longest time shall first put.

27. A motion to reconsider a vote, must be made by a member voting with the majority; or, in case of an equal vote, then by a member voting in the negative; and such motion, to be in order, must be made within the next two days of actual session of the House, if such vote was had.

28. Any number of members shall have power to adjourn; and members can call the House, and send for absent members.

29. Upon the call of the House, the names of the members shall be called by the Clerk, alphabetically, and the absentees noted; absentees shall then be again called, and those still absent, for no excuse, or an insufficient one is given, shall not receive a certificate for the time he or they may be absent.

30. The previous question shall be in this form: "Shall the question now be put?" It shall only be admitted when demanded by five members; and, until decided, shall preclude further debate on the main question, and all amendments and motions, except one to adjourn, and one motion to lie on the table, all incidental motions or questions of order, arising after a motion is made for the previous question, and pending such motion, shall be decided, whether by yeas and nays or otherwise, without debate. On a motion for the previous question, and prior to voting on the same, a call of the House shall be in order; but after the demand for the previous question has been sustained, no call shall be in order, and the House shall have brought to an immediate vote; first, upon the pending amendments in the order of their age, and then upon the main question. If a call for the previous question be not sustained, the subject under consideration shall not thereby be postponed, but the business shall proceed as if no such call had been made.

31. Any member may call for a division of the question, and the decision of the Speaker as to its divisibility shall be final, as in questions of order. A motion to strike out or insert shall be deemed divisible; and a motion to strike out, upon the division of the question being negatived, shall be equivalent to agreeing to the matter in that form, but shall not preclude further amendment.

32. Any two members have a right to demand the yeas and nays upon any question before it is put; and, upon a call of the yeas and nays, the Clerk shall call over the names alphabetically, and no member shall vote except he be in his seat.

33. All questions of order, with the decisions thereon from which an appeal may have been taken, shall be noted by the Clerk, and put together at the end of the Journal of each session.

34. Messages from the Senate may be received, read and disposed

of at any time, except when the Speaker is putting a question, while the yeas and nays are being called, or while ballots are being counted.

35. Any member while discussing a question, may read from books, papers, or documents, any matter pertinent to the subject under consideration, without asking leave.

36. A motion to adjourn shall be always in order, but being decided in the negative, shall not again be entertained until some motion, call, order or discussion, shall take place; and this, together with a motion to take a recess, lay on the table, to take from the table, or to go into committee of the whole on the orders of the day, shall be decided without debate.

37. No motion or proposition on a subject different from that under consideration, shall be admitted under color or amendment; no bill or resolution shall be at any time amended by annexing thereto, or incorporating therewith, any other bill or resolution pending before the House.

38. All questions relating to the priority of business to be acted on, shall be decided without debate.

39. No memorial, petition, communication, or other paper which may be laid on the table, shall be printed, unless by special order of the House to that effect.

40. During the sitting of the House, no person shall be admitted within the bar of the House, excepting members of the two Houses, their clerks, assistants, and other officers or persons charged with any message or paper for the House; clergymen by invitation of the Speaker, the Governor of this or any other State, Judges of the Supreme Courts, heads of the different Departments, members of Congress, gentlemen who have been members of either branch of the Legislature of this State, and those who for the time being are members of the Legislature of other States, and ladies visiting the hall—together with such other persons as may, at any time, be specially invited by any member of the present House.

OF BILLS.

41. Every bill shall be introduced on the report of a committee, or by motion for leave; in the latter case, at least one day's notice shall be given of the motion; and all bills shall be considered in the order in which they are introduced, unless the House shall otherwise direct.

42. The first reading of a bill shall be by its title only, unless the reading be called for by a member for information; and if opposition be made to the bill, the question shall be, "Shall the bill be rejected?" If the bill be not rejected, it shall pass to a second reading in the order of proceeding,—which reading shall also be by title, unless the reading be called for by a member.

43. On the second reading of a bill, the Speaker shall state that it is ready for commitment or engrossment, and if no motion or order be made to the contrary, it shall be committed to a committee of the House, to be considered in its order; if the bill be ordered to be engrossed, the House shall direct on what day it shall be read a third time.

44. Bills standing in order for a third reading, shall be taken up and read without a motion to that effect, and the question shall be put, "Shall the bill pass?" unless otherwise ordered by the House.

45. When a bill has passed the House, the Speaker shall read its title, substituting the word "act" for the word "bill," and shall demand, if the House agree to its title; and if the House is agreed, the Clerk shall make out the title accordingly, and shall certify the passage of the bill upon the back thereof.

46. After commitment and report thereof to the House, or at any time before its passage, a bill or resolution may be recommitted.

47. No amendment by way of rider shall be received to any bill on its third reading.

ON COMMITTEES OF THE WHOLE HOUSE.

48. When the House shall be ready to proceed to the orders of the day, a motion to go into committee of the whole House on the order of the day, shall have precedence of all other motions, except to adjourn, to take a recess, and for the previous question.

49. In forming a committee of the whole House, the Speaker shall leave the chair and appoint a Chairman, who shall preside and vote as other members.

50. In a committee of the whole, bills shall be read by the Chairman or Clerk, and considered by sections unless otherwise directed by the committee, leaving the preamble to be last considered; the body of the bill shall not be defaced or interlined, but amendments shall be noted by the Chairman or Clerk, on a separate piece of paper as the same shall be agreed to by the committee, and so reported to the House; after being reported, the bill and amendments of the committee shall be immediately taken up for consideration, unless otherwise ordered by the House, and again be subject to discussion or amendment before the question to engross the bill be taken.

51. The rules of proceeding in committee of the whole, shall be the same as in the House, so far as may be applicable.

52. Jefferson's Manual shall be received as a rule in all cases not provided for in the foregoing rules.

53. These rules shall not be altered except at least one day's notice of such intention of such alteration.

54. Upon a motion to suspend the rules of the House, it shall require a vote of two-thirds of the members present to decide the motion in the affirmative.

JOURNAL OF THE CONVENTION

FOR FORMING A

CONSTITUTION AND STATE GOVERNMENT,

Begun and held at the town of Chillicothe, in the County of Ross, on the first Monday in November, in the year of our Lord, one thousand eight hundred and two, and of the Independence of the United States of America, the twenty seventh.

On which day, being the time and place appointed for the meeting of the Convention, for the purpose of forming a constitution and state government, by the act of Congress, entitled "An act to enable the people of the eastern division of the territory north-west of the river Ohio, to form a constitution and state government, and for the admission of such state into the Union on an equal footing with the original states, and for other purposes," the following members appeared, who produced certificates of their having been duly chosen to serve in the Convention, and having severally taken the oath of fidelity to the United States, and also an oath faithfully to discharge the duties of their office, took their seats; to wit:

From the County of Adams—Joseph Darlington, Thomas Kirker and Israel Donalson.

From the county of Belmont—James Caldwell.

From the county of Hamilton—Francis Dualavy, John Paul, Jeremiah Morrow, John Wilson, Charles Willing Byrd, William Goforth, John Smith and John Reily.

From the county of Jefferson—Rudolph Bair, John Milligan and George Humphrey.

From the county of Ross—Edward Tiffin, Nathaniel Massie, Thomas Worthington, Michael Baldwin and James Grubb; and

From the county of Trumbull—Samuel Huntington.

On motion, The Convention proceeded to the choice of a President *pro tempore*, when William Goforth, Esquire, was chosen and took the chair.

On motion, The Convention proceeded to the choice of a Secretary, *pro tempore*; whereupon, Mr. William M'Farland was chosen and proceeded to the duties of his office.

On motion,

Resolved, That a standing committee of Privileges and Elections, to consist of five members, be chosen by ballot, whose duty it shall be to examine and report upon the credentials of the members returned to serve in the Convention, and to take into consideration all such matters as shall or may be referred to them, touching returns and elections, and to report their proceedings, with their opinion thereupon, to the Convention.

And a committee was appointed of Mr. Worthington, Mr. Darlington, Mr. Smith, Mr. Milligan and Mr. Huntington.

On motion, The Convention proceeded, by ballot, to the choice of a door-keeper, to serve during the pleasure of the Convention; and upon examining the ballots, a majority of the votes was found in favor of Adam Betz.

On motion, Ordered, That a committee of three be appointed to prepare and report rules for the regulation and government of the Convention, and that Mr. Reily, Mr. Milligan and Mr. Worthington, be the said committee.

And then the convention adjourned until to-morrow morning, ten o'clock.

TUESDAY, November the 2d, 1802.

Several other members, to wit: from the county of Belmont, Elijah Woods; from the county of Fairfield, Emanuel Carpenter and Henry Abrams; from the county of Jefferson, Bazaleel Wells and Nathan Updegraff; from the county of Hamilton, John W. Browne; and from the county of Washington, Rufus Putnam, Ephraim Cutler, John M'Intire and Benjamin Ives Gilman, appeared, who severally produced certificates of their having been chosen as members to the convention, and having taken the oath of fidelity to the United States, and also an oath faithfully to discharge the duties of their office, took their seats.

Mr. Worthington, from the committee of Privileges and Elections, to whom was referred the several returns of election of members to serve in the convention, made a report, which he delivered in at the Secretary's table, where the same was read in the words following, to wit:

The committee of Privileges and Elections, to whom was referred the certificates of the elections of the following members, viz:

From the county of Adams—Joseph Darlington, Thomas Kirker and Israel Donalson, Esquires;

From the county of Belmont—James Caldwell, Esquire;

From the county of Clermont—Philip Gatch and James Sargent, Esquires;

From the county of Hamilton—Francis Dunlavy, John Paul, Jeremiah Morrow, John Wilson, Charles Willing Byrd, William Goforth, John Smith and John Reily, Esquires;

From the county of Jefferson—Rudolph Bair, John Milligan and George Humphrey, Esquires;

From the county of Ross—Edward Tiffin, Nathaniel Massie, Thomas Worthington, Michael Baldwin and James Grubb, Esquires; and

From the county of Trumbull—Samuel Huntington, Esquire;

Having carefully examined the same, find them regular and agreeably to a law of the territory, entitled "An act to ascertain the number of free male inhabitants of the age of twenty-one, in the territory of the United States, north-west of the river Ohio; and to regulate the elections of representatives for the same;" and that the members aforesaid, from the certificates to us referred, appear duly elected.

The said report was again read, and on the question thereupon, agreed to by the convention.

On motion,

Resolved, That the convention proceed, by ballot, to the choice of a President.

The convention accordingly proceeded to choose their President, and upon examining the ballots it was found that Edward Tiffin, Esquire, was duly chosen, who accordingly took his seat in the chair, and delivered the following address:

Gentlemen—I beg you to be assured, that I duly appreciate the honor you have conferred in selecting me to preside over your deliberations, on this important occasion; the duties of the chair will, I presume, be pleasing and easy, for, from the known characters of the gentlemen who compose this convention, there can be no doubt but that the utmost propriety and decorum will be observed, without the aid of interference from the chair. Whatever rules you may adopt for the government of the convention, shall be strictly observed, and in every decision which may be required from the chair, the utmost impartiality shall be evinced.

On motion,

Resolved, That the convention proceed, by ballot, to the choice of a Secretary, and that the person having a plurality of votes be elected.

The convention accordingly proceeded to choose their Secretary, and upon examining the ballots, it was found that Thomas Scott, Esquire, was duly chosen, who thereupon took the oath of fidelity to the United States, and also an oath faithfully to discharge the duties of his office.

On motion,

Resolved, That the convention proceed, by ballot, to the choice of an Assistant Secretary.

The convention accordingly proceeded to the choice of an Assistant Secretary, and upon examining the ballots, a majority of the votes of the whole number was found in favor of Mr. William M'Farland, who thereupon took the oath of fidelity to the United States, and also an oath faithfully to discharge the duties of his office.

And then the convention adjourned until to-morrow morning, ten o'clock.

WEDNESDAY, November 3d, 1802.

Another member, to wit: from the county of Hamilton, John Kitchel, who appeared, produced a certificate of his having been duly chosen as a member in the convention, and having taken the oath of fidelity to the United States, and also an oath faithfully to discharge the duties of his office, took his seat.

Mr. Reily, from the committee appointed to prepare and report rules for the regulation and government of the convention, made a report, which was received and read; whereupon,

Resolved, That the same be established as the standing rules and orders of the convention.

STANDING RULES AND ORDERS OF THE CONVENTION.

1. The President shall take the chair every day at the hour to which the convention shall have adjourned on the preceding day; shall immediately call the members to order, and on the appearance of a quorum, shall cause the journal of the preceding day to be read.

2. The President shall preserve decorum and order; may speak to points of order in preference to other members, rising from the chair for that purpose, and shall decide questions of order, subject to an appeal to the convention by any one member.

3. The President, rising from his seat, shall distinctly put the question in this form, viz: "You who are of opinion that (as the case may be) say *aye*; contrary opinion say *no*."

4. If the President doubts, or a division be called for, the members shall divide, those in the affirmative first rising from their seats, and afterwards those in the negative. If a count be required by any member, the President shall name two members, one from each side, to tell the numbers, beginning with the affirmative, report of the same being made to the President, he rising from his seat, shall state the decision.

5. Any member may call for a statement of the question, which the President may give sitting.

6. The President with five members, shall be a sufficient number to adjourn; seven to call a house and send for absent members, and

make an order for their censure or discharge, and a majority of the whole number, consisting of two-thirds of the whole number elected, be a quorum to proceed to business.

7. When a member is about to speak in debate, or deliver any matter to the convention, he shall rise from his seat and respectfully address himself to Mr. President.

8. If any member in speaking or otherwise, transgress the rules, the President shall, or any member may, call to order; in which case the member so called to order shall immediately sit down, unless permitted to explain, and the convention shall, if appealed to, decide on the case, but without debate. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, and the case require it, he shall be liable to the censure of the convention.

9. When two or more happen to rise at the same time, the President shall name the person who is first to speak.

10. No member shall speak more than twice to the same question, without leave of the convention.

11. Whilst the President is putting a question or addressing the convention, none shall walk out of or across the room, nor when a member is speaking, entertain private discourse or pass between him and the chair.

12. No member shall vote on any question or in any case where he was not present when the question was put.

13. Upon calls of the convention for taking the yeas and nays on any question, the names of the members shall be called alphabetically, and each member shall answer from his seat.

14. Any member shall have a right to call for the yeas and nays, provided he shall request it before the question be put.

15. When a motion is made and seconded, it shall be stated by the President, or being in writing, shall be read aloud by the Secretary; and every motion shall be reduced to writing, if the President or any member require it.

16. Any member may call for a division of the question, where the sense will admit of it.

17. Each member shall particularly forbear personal reflection, nor shall any member name another in argument or debate.

18. After a motion is stated by the President or read by the Secretary, it shall be deemed to be in possession of the convention, but may be withdrawn at any time before a decision or amendment.

19. When a question is under debate, no motion shall be received unless it be the previous question, or for amending or committing the original motion or subject in debate.

20. The previous question shall be in this form, "Shall the main question be now put?" It shall only be admitted when demanded by three members, and until it is decided shall preclude all amendment and further debate on the original motion.

21. In taking the sense of the convention, a majority of the votes of the members present shall govern.

22. If any member fails in attending to his duty, such officer as may be appointed for that purpose, by order of the convention, shall take him into custody, for which the officer shall receive one dollar per day for the time he is travelling to and from the place of residence of the member, and until he is admitted to his seat, to be paid by the delinquent.

23. No resolution, section or article in the constitution, shall be finally concluded and agreed upon, until the same shall have received three several readings.

24. The convention shall resolve itself into a committee of the whole, when deemed necessary, and when in committee of the whole shall be governed by the foregoing rules, except that in committee of the whole, any member shall speak as often as he may think proper.

25. The President shall appoint committees, liable to addition or amendment, on the motion of any member, unless otherwise directed by the convention.

26. A motion to adjourn shall always be in order, and be decided without debate.

A motion was made and seconded, that Arthur St. Clair, sen. Esq., be permitted to address the convention on those points which he deems of importance.

And on the question thereupon, it was resolved in the affirmative—yeas 19, nays 14.

Those who voted in the affirmative are,

Messrs. Bair, Browne, Caldwell, Cutler, Dunlavy, Gilman, Humphrey, Huntington, M'Intire, Massie, Morrow, Paul, Putnam, Reilly, Sargent, Smith, Updegraff, Wells and Woods.

Those who voted in the negative are,

Messrs. Abrams, Baldwin, Byrd, Carpenter, Darlington, Donalson, Gatch, Goforth, Grubb, Kitchel, Kirker, Milligan, Wilson and Worthington.

And thereupon, Arthur St. Clair, sen. Esq. was permitted to address the convention.

On motion, leave was given to lay before the convention a resolution on the subject of forming a constitution and state government; which resolution was received and read the first time.

On motion, the said resolution was read the second time; whereupon,

Resolved, That the convention will immediately resolve itself into a committee of the whole on the said resolution.

The convention accordingly resolved itself into the said committee, Mr. Goforth in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Goforth reported, that the committee had, according to order, had the said resolution under consideration, and made no amendment thereto.

The said resolution was then amended at the Secretary's table, and read the third time, and on the question that the convention do agree to the same, in the words following :

Whereas, Congress did, by the law, entitled "An act to enable the people of the eastern division of the territory northwest of the river Ohio, to form a constitution and state government, and for the admission of said state into the Union on an equal footing with the original states, and for other purposes ;" that the members of the convention thus duly elected, agreeably to the act aforesaid, when met, shall first determine by a majority of the whole number elected, whether it be or be not expedient, at this time, to form a constitution and state government for the people within the said territory : Therefore,

Resolved, That it is the opinion of this convention, that it is expedient, at this time, to form a constitution and state government.

It was resolved in the affirmative—yeas 32, nays 1.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abrams, Baldwin, Bair, Browne, Byrd, Caldwell, Carpenter, Darlington, Donalson, Dunlavy, Gatch, Gilman, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, M'Intire, Massie, Milligan, Morrow, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Wells, Wilson, Woods and Worthington.

The vote in the negative was,

Mr. Cutler.

On motion,

Resolved, That the convention will now proceed to form a constitution and state government.

On motion,

Resolved, That a committee be appointed, to consist of one member from each county, to prepare and report a preamble and the first article of the constitution.

And a committee was appointed, to wit :

From the county of Hamilton, Mr. Byrd ; from the county of Clermont, Mr. Gatch ; from the county of Adams, Mr. Darlington ; from the county of Ross, Mr. Massie ; from the county of Fairfield, Mr. Carpenter ; from the county of Washington, Mr. Putnam ; from the county of Jefferson, Mr. Milligan ; from the county of Trumbull, Mr. Huntington ; and from the county of Belmont, Mr. Caldwell.

On motion, ordered, that the following persons be added to the said committee, to wit :

From the county of Hamilton, Mr. Paul and Mr. Smith ; from the county of Adams, Mr. Kirker ; from the county of Ross, Mr. Worthington ; from the county of Washington, Mr. Gilman ; and from the county of Jefferson, Mr. Wells.

On motion, ordered, that Mr. McFarland, Assistant Secretary, attend the said committee.

On motion,

Resolved, That a committee of two be appointed, to provide fuel and stationery ; also, to contract for the necessary printing for the convention, and that Mr. Massie and Mr. Grubb, be the said committee.

Mr. Worthington, from the committee of Privileges and Elections, to whom was referred the several returns of elections of members, to serve in the convention, made a report, which he delivered in at the Secretary's table, where the same was read as follows :

The committee of Privileges and Elections, to whom was referred the certificates of election of the following members, viz :

From the county of Belmont, Elijah Woods, Esq.; from the county of Fairfield, Emanuel Carpenter and Henry Abrams, Esq's; from the county of Hamilton, John W. Browne and John Kitchel, Esq's; from the county of Jefferson, Nathan Updegraff and Bazaleel Wells, Esq's; and from the county of Washington, Rufus Putnam, Ephraim Cutler, John M'Intire, and Benjamin Ives Gilman, Esq's, having carefully examined the same, report, that from the certificates to us referred, the members aforesaid appear duly elected.

The said report was again read, and on the question thereupon, agreed to by the convention.

And then the convention adjourned until to-morrow, 12 o'clock.

THURSDAY, November 4th, 1802.

Mr. Putnam, from the committee appointed to prepare and report a preamble and the first article of the constitution, reported a preamble to the constitution; which was received and read the first time: Whereupon,

Resolved, That the convention will immediately resolve itself into a committee of the whole convention, on the said preamble.

The convention accordingly resolved itself into the said committee, Mr. Reily in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Riley reported, that the committee had, according to order, had the said preamble under consideration, and made an amendment thereto; which he delivered in at the Secretary's table.

Ordered, that the said preamble, with the amendments, do lie on the table.

On motion, ordered, that the committee appointed to provide fuel and stationery, also to contract for the printing for the present convention, be directed to inquire of the printer, what seven hundred copies of the journal and constitution will cost; what every additional three hundred copies will cost, and report the same to the convention.

On motion, ordered, that a committee of three be appointed to revise the journal of the convention, before it goes to the press.

And a committee was appointed of Mr. Riley, Mr. Gilman and Mr. Donalson.

On motion, ordered, that a committee of nine be appointed to prepare and report a bill of rights and a schedule, for the purpose of carrying into complete operation, the constitution and government.

And a committee was appointed, of Mr. Goforth, Mr. Dunlavy, Mr. Browne, Mr. Baldwin, Mr. Grubb, Mr. Woods, Mr. Updegraff, Mr. Cutler and Mr. Donalson.

And then the convention adjourned until to-morrow 12 o'clock.

FRIDAY, November 5th, 1802.

A motion was made and seconded, that the convention expunge from their journal, the resolution and all the proceedings relative thereto, which authorized the President to inclose to his Excellency the Governor, and those members of the Territorial Legislature, who are not in the convention, their opinion on the impropriety of holding another session of the Territorial Legislature.

And on the question, will the convention agree to the same? it was resolved in the affirmative—yeas 25, nays 8.

The yeas and nays being demanded, those who voted in the affirmative are,

Messrs. Abrams, Bair, Browne, Cutler, Donalson, Dunlavy, Gatch, Gilman, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, M'Intire, Morrow, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Wells, Wilson and Woods.

Those who voted in the negative, are

Messrs. Baldwin, Byrd, Caldwell, Carpenter, Darlington, Massie, Milligan and Worthington.

On motion,

Resolved, That the President, in behalf of the Convention, request the Governor to dissolve or prorogue the present Territorial Legislature.

Mr. Massie, from the committee directed to inquire of the printers, what seven hundred copies of the constitution will cost; also, what every additional three hundred copies will cost, made a report, which was received and read the first time: Whereupon,

Ordered, That the said report be committed to Mr. Smith, Mr. Darlington, Mr. Massie, Mr. Cutler and Mr. Bair.

And then the convention adjourned until to-morrow morning, ten o'clock.

SATURDAY, NOVEMBER 6th, 1802.

Mr. Putnam, from the committee appointed to prepare and report a preamble and the first article of the constitution, reported the first article of the constitution; which was received and read the first time: Whereupon,

Ordered, That the said article be committed to a committee of the whole convention, on Monday next.

On motion, Ordered, That forty copies of the said article be printed for the use of the members and officers of the convention.

On motion, Ordered, That a committee be appointed to prepare and report the second article of the constitution, on the supreme executive authority.

And a committee was appointed of Mr. Paul, Mr. Byrd, Mr. Smith, Mr. Gatch, Mr. Darlington, Mr. Kirker, Mr. Massie, Mr. Worthington, Mr. Carpenter, Mr. Putnam, Mr. Gilman, Mr. Huntington, Mr. Milligan, Mr. Wells and Mr. Caldwell.

The convention proceeded to consider the amendment reported on Thursday last, from the committee of the whole convention, to the preamble to the constitution; and the same being read, was agreed to.

And then the convention adjourned until Monday morning, ten o'clock.

MONDAY, NOVEMBER 8th, 1802.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the first article of the constitution, Mr. Darlington in the chair, and after sometime spent therein, Mr. President resumed the chair, and Mr. Darlington reported, that the committee had, according to order, had the said article under consideration, and made some progress therein.

Resolved, That the convention will, to-morrow, again resolve itself into a committee of the whole convention, on the said article.

And then the convention adjourned until to-morrow morning, ten o'clock.

TUESDAY, NOVEMBER 9th, 1802.

Mr. Massie, from the committee appointed to prepare and report the second article of the constitution, on the supreme executive authority, made report; which was received and read the first time: Whereupon,

Ordered, That the said article be committed to a committee of the whole convention, to-morrow.

Mr. Smith, from the committee to whom was referred the proposals of Mr. Nathaniel Willis and Messrs. Carpenter and Findlay, for printing the journal and constitution, now framing, made a report; which was received and read the first time and ordered to lie on the table.

The convention, according to the order of the day, again resolved itself into a committee of the whole convention, on the first article of the constitution, Mr. Darlington in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Darlington reported, that the committee had, according to order, again had the said article under consideration, and made several amendments thereto; which he delivered in at the Secretary's table.

Ordered, That the said article, with the amendments, do lie on the table.

On motion, Ordered, That a committee be appointed to prepare and report the third article of the constitution, on the Judiciary.

And a committee was appointed of Mr. Paul, Mr. Byrd, Mr. Smith, Mr. Gatch, Mr. Darlington, Mr. Kirker, Mr. Massie, Mr. Worthington, Mr. Carpenter, Mr. Putnam, Mr. Gilman, Mr. Milligan, Mr. Wells, Mr. Caldwell and Mr. Huntington.

And then the convention adjourned until to-morrow morning, ten o'clock.

WEDNESDAY, NOVEMBER 10th, 1802.

A motion was made and seconded, that Mr. Nathaniel Willis be appointed printer to the convention.

And on the question thereupon, it was resolved in the affirmative—yeas 27—nays 5.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abrams, Baldwin, Bair, Browne, Byrd, Caldwell, Carpenter, Darlington, Donalson, Gatch, Gilman, Goforth, Grubb, Humphrey, Huntington, Kirker, M'Intire, Massie, Milligan, Morrow, Putnam, Sargent, Smith, Updegraff, Wilson, Woods and Worthington.

Those who voted in the negative, are

Messrs. Dunlavy, Kitchel, Paul, Reily and Wells.

On motion, Ordered, That Mr. Baldwin be added to the committee appointed to prepare and report the third article of the constitution, on the Judiciary.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the second article of the constitution, on the supreme executive authority, Mr. Massie in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Massie reported, that the committee had, according to order, had the said article under consideration, and made several amendments thereto; which he delivered in at the Secretary's table.

Ordered, That the said article, with the amendments, do lie on the table.

On motion, Ordered, That Mr. Reily be added to the committee appointed to prepare and report a bill of rights, and a schedule, for the purpose of carrying into complete operation the constitution and government.

On motion, Ordered, That a committee be appointed to contract with Mr. Nathaniel Willis, printer, of Chillicothe, for the printing of seven hundred copies of the journal of the convention, and one thousand copies of the constitution now framing, in octavo, on the terms proposed by the said Willis; and also, for such other printing as may be found necessary, during the sitting of the convention, on the same terms that such printing hath heretofore been contracted for by the Legislature of the territory; and that Mr. Darlington and Mr. Reily be the said committee.

And then the convention adjourned until to-morrow morning, twelve o'clock.

THURSDAY, NOVEMBER 11th, 1802.

Mr. Goforth, from the committee appointed to prepare and report a bill of rights, and a schedule for the purpose of carrying into com-

plete operation, the constitution and government, reported a bill of rights; which was received and read the first time: Whereupon,

Ordered, That the said bill of rights be committed to a committee of the whole convention, to-morrow.

And then the convention adjourned until to-morrow morning, twelve o'clock.

FRIDAY, NOVEMBER 12th, 1802.

On motion, Ordered, That a committee of five be appointed to prepare and report the fourth article of the constitution, designating the qualifications of electors.

And a committee was appointed of Mr. Morrow, Mr. Paul, Mr. Kirker, Mr. Grubb and Mr. Bair.

Mr. Smith, from the committee appointed to prepare and report the third article of the constitution, on the judiciary, made a report which was received and read the first time: whereupon,

Ordered, That the said article be committed to a committee of the whole convention to-morrow.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the bill of rights, Mr. Worthington in the chair, and after sometime spent therein, Mr. President resumed the chair and Mr. Worthington reported, that the committee had, according to order, had the said bill of rights under consideration and made several amendments thereto, which he delivered in at the Secretary's table.

Ordered, That the said bill of rights, with the amendments, do lie on the table.

Another member, to wit: from the county of Trumbull, David Abbot, who appeared, produced a certificate of his having been duly chosen as member in the convention, and having taken the oath of fidelity to the United States, and also an oath faithfully to discharge the duties of his office, took his seat.

On motion, leave was given to lay before the convention a resolution, for submitting the constitution or frame of government, now preparing, to the people of the eastern division of the territory northwest of the Ohio, for their acceptance or disapprobation; which resolution was received and read the first time: whereupon,

Ordered, that the said resolution be committed to a committee of the whole convention to-morrow.

On motion, Ordered, That a committee of six be appointed, to prepare and report the sixth article of the constitution, designating the manner in which sheriffs, coroners and certain other civil officers, shall be chosen or appointed.

And a committee was appointed of Mr. Kitchel, Mr. Wilson, Mr. McIntire, Mr. Abbot, Mr. Gilman and Mr. Baldwin.

On motion, Ordered, That a committee of five be appointed to prepare and report the fifth article of the constitution, declaring the manner in which militia officers shall be chosen or appointed.

And a committee was appointed of Mr. Putnam, Mr. Byrd, Mr. Massie, Mr. Worthington and Mr. Sargent.

And then the convention adjourned until to-morrow morning, ten o'clock.

SATURDAY, NOVEMBER 13th, 1802.

Mr. Worthington, from the committee appointed to prepare and report the fifth article of the constitution, declaring the manner in which militia officers shall be chosen or appointed, made a report which was received and read the first time: Whereupon,

Ordered, That the said article be committed to a committee of the whole Convention on Monday next.

Mr. Morrow, from the committee appointed to prepare and report the fourth article of the constitution, designating the qualifications of electors, made a report, which was received and read the first time.—Whereupon,

Ordered, That the said article be committed to a committee of the whole Convention on Monday next.

The Convention, according to the order of the day, resolved itself into a committee of the whole Convention, on the resolution for submitting the constitution or frame of government, now preparing, to the people of the eastern division of the territory north-west of the Ohio, for their acceptance or disapprobation, Mr. Byrd in the chair, and after some time spent therein, Mr. President resumed the chair and Mr. Byrd reported, that the committee had, according to order, had the said resolution under consideration, and directed him to report to the Convention their disagreement to the same.

On the question, that the Convention do agree with the committee of the whole convention, in their disagreement to the said resolution, in the words following:

Resolved, That the constitution or frame of government by this convention prepared for the people of the eastern division of the territory north-west of the Ohio, be submitted to them for their acceptance and confirmation, in the following manner, to wit; Meetings of the people for that purpose, shall be holden in the several election districts in each county, on the day of next, at which meetings the opinion of the people shall be taken by ballot; those who are for accepting the constitution, shall give in a ballot with the word *yes* wrote thereon;

and those in the negative opinion, a ballot with the word *nay* on it.—Judges shall be chosen to preside, who shall receive, count and certify the number of yeas and nays to the prothonotary, in the same manner as provided by law, for the election of Representatives to the General Assembly; the prothonotary, in the presence of the sheriff and two justices of the peace, shall count the yeas and nays, and make return thereof, sealed up, to on or before the day of

And be it further Resolved, That be and they are hereby appointed a committee, who, on the day of next, shall meet at and they, or a majority of them, shall open the returns of the several prothonotaries and count the number of the yeas and nays, and if there appears a majority of the people for accepting the constitution, the committee shall give notice thereof in the newspapers printed at Cincinnati, Chillicothe and Marietta; and the election of the Governor and members of the two Houses of the General Assembly shall proceed as provided for by this constitution. But if it appear that there is not a majority of the people for accepting of the constitution, then the committee aforesaid be, and they are hereby, vested with power, in the name and by the authority of this convention, to call another convention for the purpose of amending this or forming a constitution, to be confirmed by the said convention, without further reference to the people.

It was resolved in the affirmative—yeas 27, nays 7.

Those who voted in the affirmative are,

Messrs. Abbot, Abrams, Baldwin, Bair, Browne, Byrd, Caldwell, Carpenter, Darlinton, Donalson, Dunlavy, Gatch, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, Massie, Milligan, Morrow, Paul, Sargent, Smith, Wilson, Woods and Worthington.

Those who voted in the negative are,

Messrs. Cutler, Gilman, McIntire, Putnam, Reily, Updegraff and Wells.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the third article of the constitution, on the judiciary, Mr. Smith in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Smith reported, that the committee had, according to order, had the said article under consideration, and made some progress therein.

Resolved, That the convention will, on Monday next, again resolve itself into a committee of the whole convention, on the said article.

And then the convention adjourned until Monday morning, ten o'clock.

MONDAY, November 15th, 1802.

The convention, according to the order of the day, again resolved itself into a committee of the whole convention, on the third article of

the constitution, on the judiciary, Mr. Massie in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Massie reported, that the committee had, according to order, again had the said article under consideration, and made a further progress therein.

Resolved, That the convention will, to-day, again resolve itself into a committee of the whole convention, on the said article.

Mr. Worthington, from the committee on Privileges and Elections, to whom was referred the return of election of David Abbot, from the county of Trumbull, to serve in the convention, made a report, which he delivered in at the Secretary's table, where the same was read and agreed to in the words following, to wit:

The committee on Privileges and Elections, having examined the certificate of the election of David Abbot, Esquire, from the county of Trumbull, find the same agreeable to law, and further report, that it appears from the certificate aforesaid, that the said David Abbot, Esquire, is duly elected as a representative to the convention, from the county aforesaid.

The convention, according to the order of the day, again resolved itself into a committee of the whole convention, on the third article of the constitution, on the judiciary, Mr. Smith in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Smith reported, that the committee had, according to order, again had the said article under consideration, and made several amendments thereto, which he delivered in at the Secretary's table.

On motion, ordered, That the said article, with the amendments thereto, be recommitted to Mr. Byrd, Mr. Huntington and Mr. Darlington.

The several orders of the day were further postponed until to-morrow.

And then the convention adjourned until to-morrow morning, ten o'clock.

TUESDAY, November 16th, 1802.

Mr. Kitchel, from the committee appointed to prepare and report the sixth article of the constitution, designating the manner in which sheriffs, coroners and certain other civil officers, shall be chosen or appointed, made a report, which was received and read the first time; Whereupon,

Ordered, That the said article be committed to a committee of the whole convention to-day.

Mr. Darlington, from the committee appointed to contract with Mr. Nathaniel Willis, printer, of Chillicothe, for the printing of seven hundred copies of the journal of the convention, and one thousand copies

of the constitution now framing; in octavo; and also for such other printing as may be found necessary, reported, that the committee had made the said contract, which he delivered in at the Secretary's table, where the same was read and agreed to by the convention.

Mr. Byrd, from the committee to whom was recommitted the third article of the constitution, on the judiciary, reported an amendatory article on the judiciary, which was received and read the first time.

On motion, ordered, That the said article be committed to a committee of the whole convention to-morrow.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the fourth article of the constitution, designating the qualifications of electors, Mr. Baldwin in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Baldwin reported, that the committee had, according to order, had the said article under consideration, and made several amendments thereto, which he delivered in at the Secretary's table.

Ordered, That the said article, with the amendments, do lie on the table.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the fifth article of the constitution, declaring the manner in which militia officers shall be chosen or appointed; Mr. Wells in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Wells reported, that the committee had, according to order, had the said article under consideration, and made several amendments thereto, which he delivered in at the Secretary's table.

Ordered, That the said article, with the amendments, do lie on the table.

On motion, ordered, That a committee of five be appointed to prepare and report an article comprehending the general regulations and provisions of the constitution.

And a committee was appointed of Mr. Smith, Mr. Huntington, Mr. Worthington, Mr. Darlington and Mr. Abrams.

On motion, ordered, That a committee, to consist of one member from each county, be chosen by ballot, whose duty it shall be to take into consideration the propositions made by Congress, for the acceptance or rejection of the convention, and report their opinion thereupon.

And a committee was accordingly chosen, to wit: From the county of Adams, Mr. Darlington; from the county of Belmont, Mr. Woods; from the county of Clermont, Mr. Gatch; from the county of Fairfield, Mr. Carpenter; from the county of Jefferson, Mr. Wells; from the county of Hamilton, Mr. Byrd, from the county of Ross, Mr. Worthington; from the county of Trumbull, Mr. Huntington; and from the county of Washington, Mr. Putnam.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the sixth article of the constitution, designating the manner in which sheriffs, coroners, and certain other civil officers shall be chosen or appointed, Mr. Gilman in the chair, and after some time spent therein, Mr. President resum-

ed the chair, and Mr. Gilman reported, that the committee had, according to order, had the said article under consideration, and made several amendments thereto, which he delivered in at the Secretary's table.

Ordered, That the said article, with the amendments, do lie on the table.

And then the convention adjourned until to-morrow, twelve o'clock.

WEDNESDAY, November 17th, 1802.

Mr. Goforth, from the committee appointed to prepare and report a bill of rights, and a schedule for the purpose of carrying into complete operation the constitution and government, reported a schedule, which was received and read the first time: Whereupon,

Ordered, That the said schedule be committed to a committee of the whole convention to-morrow.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the third article of the constitution, on the judiciary, Mr. Smith in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Smith reported, that the committee had, according to order, had the said article under consideration, and made several amendments thereto, which he delivered in at the Secretary's table.

Ordered, That the said article, with the amendments, do lie on the table.

And then the Convention adjourned until to-morrow morning, ten o'clock.

THURSDAY, November 18th, 1802.

Mr. Smith, from the committee appointed to prepare and report the seventh article of the constitution, comprehending the general regulations and provisions of the constitution, made a report, which was received and read the first time: Whereupon,

Ordered, That the said article be committed to a committee of the whole convention to-morrow.

The convention, according to the order of the day, resolved itself into a committee of the whole convention; on the schedule to the constitution, Mr. Byrd in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Byrd reported, that the committee had, according to order had the said schedule under consideration, and made several amendments thereto, which he delivered in at the Secretary's table.

Ordered, That the said schedule, with the amendments, to lie on the table.

The convention proceeded to consider the amendments reported on the 9th instant, from the committee of the whole convention, to the first article of the constitution, and the same being read, some were agreed to and others disagreed to.

A motion was then made further to amend the said article at the Secretary's table, by striking out after the word "of," in the second line of the fourth section, the words "twenty-five."

And on the question thereupon, it passed in the negative—yeas 10, nays 23.

The yeas and nays being demanded, those who voted in the affirmative are,

Messrs. Baldwin, Carpenter, Darlinton, Grubb, Humphrey, Kirker, Kitchel, Milligan, Morrow and Smith.

Those who voted in the negative are,

Messrs. Abbott, Abrams, Bair, Browne, Byrd, Caldwell, Cutler, Donalson, Gatch, Gilman, Goforth, Huntington, M'Intire, Massie, Paul, Putnam, Reily, Sargent, Updegraff, Wells, Wilson, Wood and Worthington,

Another motion was then made, further to amend the said article by striking out, after the word "chosen," in the first line of the fifth section the word "biennially," and to insert in lieu thereof the word "annually."

And on the question thereupon, it passed in the negative—yeas 15, nays 18.

And the yeas and nays being demanded, those who voted in the affirmative are,

Messrs. Abbot, Abrams, Baldwin, Browne, Carpenter, Darlinton, Donalson, Gatch, Grubb, Humphrey, Kitchel, Milligan, Sargent, Wilson and Worthington.

Those who voted in the negative are,

Messrs. Byrd, Caldwell, Cutler, Dunlavy, Gilman, Goforth, Huntington, Kirker, M'Intire, Massie, Morrow, Paul, Putnam, Reily, Smith, Updegraff, Wells and Woods.

Another motion was then made further to amend the said article by striking out, after the word "than," in the sixth line of the sixth section, these words, "one third."

And on the question thereupon, it passed in the negative—yeas 8, nays 25.

The yeas and nays being demanded, those who voted in the affirmative, are.

Messrs. Abbot, Caldwell, Carpenter, Humphrey, Kirker, Milligan, Morrow and Worthington.

Those who voted in the negative are,

Messrs. Abrams, Baldwin, Bair, Browne, Byrd, Cutler, Donalson, Dunlavy, Gatch, Gilman, Goforth, Grubb, Huntington, Kitchel, Mc-

Intire, Massie, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Wells, Wilson and Woods.

Another motion was then made, further to amend the said article, and debate arising thereon, an adjournment was called for.

And then the convention adjourned until three o'clock, P. M.

The convention met at three o'clock, P. M.

A motion was made to amend the standing rules and orders of the convention, by inserting after the word "it," in the second line of the sixteenth rule, these words, "unless the ayes and noes has been previously called for."

And on the question thereupon, agreed to by the convention.

The convention resumed the consideration of the amendments reported on the ninth instant, from the committee of the whole convention, to the first article of the constitution: Whereupon,

The sixteenth section of the said article being under consideration, in the words following:

"Sec. 16. Bills may originate in either House, but may be altered, amended, or rejected by the other."

A motion was made to strike out the said section, and insert in lieu thereof, a section in the words following:

Sec. 16. Bills may originate in either House, but the other House may propose alterations and amendments; and whenever the House of Representatives and Senate disagree, a conference shall be held in the presence of both, and shall be managed by committees to be by them respectively chosen; and after such conference had, the points in difference, whether it be the alteration, amendment, or rejection of the bill, shall be determined by the joint vote of the members of both Houses.

And on the question that the convention do agree to the same, it passed in the negative—yeas 10, nays 24.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Browne, Carpenter, Dunlavy, Grubb, Kitchel, Milligan, Morrow, Paul and Wilson.

Those who voted in the negative, are

Messrs. Abrams, Baldwin, Bair, Byrd, Caldwell, Cutler, Darlington, Donaldson, Gatch, Gilman, Goforth, Humphrey, Huntington, Kirker, M'Intire, Massie, Putnam, Reily, Sargent, Smith, Updegraff, Wells, Woods and Worthington.

Another motion was then made, further to amend the said article, at the Secretary's table, and debate arising thereon, an adjournment was called for.

And then the convention adjourned until to-morrow morning ten o'clock.

FRIDAY, November 19, 1802.

A petition of sundry of the inhabitants of the county of Clermont, was presented to the convention and read, praying that those privileges which are the absolute right of all men, may be secured to them, &c. Whereupon,

Ordered, that the said petition do lie on the table.

The convention resumed the consideration of the amendments reported on the ninth instant, from the committee of the whole convention, to the first article of the constitution : Whereupon,

The amendment moved yesterday to the said article, being under consideration, which was to strike out the nineteenth section, in the words following :

Sec. 19. The members of the General Assembly, shall receive from the public treasury, a compensation for their services, which shall not exceed two dollars per day, during their attendance on the sessions of respective Houses, and two dollars for every twenty-five miles travel, in going to, and returning from their respective sessions, by the most usual route : Provided, that the same may be increased or diminished by law; but no alteration shall take effect during the session at which such alteration shall be made:

And insert in lieu thereof, a section in the words following :

Sec. 19. The Legislature of this State shall not allow the following officers of government, greater annual salaries than as follows: until the year to wit :

The Governor not more than dollars.

The Judges of the Supreme Court, not more than dollars.

The Secretary, not more than dollars.

The Treasurer, not more than per cent. for receiving and paying out all moneys.

No member of the Legislature shall receive more than per day, nor more for every miles he shall travel in going to and returning from the General Assembly.

And on the question that the convention agree to the same,

It was resolved in the affirmative—yeas 21, nays 13.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Abrams, Bair, Browne, Caldwell, Carpenter, Darlington, Donalson, Dunlavy, Gatch, Humphrey, Huntington, Kirker, Kitchel, Milligan, Morrow, Paul, Sargent, Updegraff, Wilson and Worthington.

Those who voted in the negative, are

Messrs. Baldwin, Byrd, Cutler, Gilman, Goforth, Grubb, M'Intire, Massie, Putnam, Reily, Smith, Wells and Woods.

A motion was made to amend the said section, by adding after the word "then," in the fourth line, these words "twelve hundred."

And on the question thereupon,

It passed in the negative—yeas 13, nays 21.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Baldwin, Byrd, Caldwell, Cutler, Gilman, Goforth, Huntington, Massie, Putnam, Smith, Wells and Woods.

Those who voted in the negative, are

Messrs. Abram, Bair, Browne, Carpenter, Darlington, Donalson, Dunlavy, Gatch, Grubb, Humphrey, Kirker, Kitchel, M'Intire, Milligan, Morrow, Paul, Riley, Sargent, Updegraff, Wilson and Worthington.

Another motion was then made, and the question being put, further to amend the said section, by inserting after the word "than," in the fourth line, the words "one thousand."

It was resolved in the affirmative—yeas 23, nays 11.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abrams, Baldwin, Browne, Caldwell, Carpenter, Cutler, Gatch, Gilman, Goforth, Grubb, Humphrey, Huntington, Kirker, M'Intire, Massie, Milligan, Putnam, Sargent, Smith, Updegraff, Wells, Woods and Worthington.

Those who voted in the negative, are

Messrs. Abbot, Bair, Byrd, Darlington, Donalson, Dunlavy, Kitchel, Morrow, Paul, Reily and Wilson.

Another motion was then made, and the question being put, further to amend the said section, by inserting after the word "then," in the eighth line, these words, "six hundred."

It passed in the negative—yeas 5, nays 29.

The yeas and nays being demanded,

Those who voted in the affirmative, are

Messrs. Baldwin, Byrd, Gilman, Massie, and Wells.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Bair, Browne, Caldwell, Carpenter, Cutler, Darlington, Donalson, Dunlavy, Gatch, Goforth, Grubb, Hum-

phrey, Huntington, Kirker, Kitchel, McIntire, Milligan, Morrow, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Wilson, Woods, and Worthington.

Another motion was then made, and the question being put, further to amend the said section by inserting, after the word "than," in the 14th line, the words "two dollars."

It was resolved in the affirmative—yeas 25, nays 9.

The yeas and nays being demanded,

Those who voted in the affirmative, are

Messrs. Abbot, Abrams, Bair, Browne, Byrd, Carpenter, Cutler, Dunlavy, Gatch, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, McIntire, Milligan, Morrow, Putnam, Reily, Sargent, Smith, Updegraff, Wells, and Worthington.

Those who voted in the negative, are

Messrs. Baldwin, Caldwell, Darlington, Donaldson, Gilman, Massie, Paul, Wilson and Woods.

Another motion was then made, and the question being put, further to amend the said section by adding to the end of the section a proviso, in the words following: *Provided*, That no member of this convention shall be appointed to any office created by this constitution, until the expiration of one year after the constitution shall take effect, except such officers as are hereby made elective by the people, and to county offices.

It passed in the negative—yeas 3, nays 31.

The yeas and nays being demanded,

Those who voted in the affirmative, are

Messrs. Abbot, Paul, and Reily.

Those who voted in the negative, are

Messrs. Baldwin, Bair, Browne, Byrd, Caldwell, Carpenter, Cutler, Darlington, Donaldson, Dunlavy, Gatch, Gilman, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, McIntire, Massie, Milligan, Morrow, Putnam, Sargent, Smith, Updegraff, Wells, Wilson, Woods, and Worthington.

Another motion was then made, and the question being put, further to amend the said section by inserting between the seventh and eighth lines of the section, the words following: the auditor of public accounts not more than seven hundred and fifty dollars.

It was resolved in the affirmative—yeas 17, nays 17.

The convention being equally divided, and Mr. President declaring himself with the yeas.

The yeas and nays being demanded, were as follows:

YEAS—Messrs. Abrams, Browne, Byrd, Carpenter, Dunlavy, Gatch, Gilman, Goforth, Humphrey, Kitchel, Massie, Morrow, Paul, Reily, Sargent, Wilson and Worthington.

NAYS—Messrs. Abbot, Baldwin, Bair, Caldwell, Cutler, Darlington, Donalson, Grubb, Huntington, Kirker, McIntire, Milligan, Putnam, Smith, Updegraff, Wells and Woods.

Another motion was then made, and the question being put further to amend the said section, by inserting, after the word "greater," in the second line of the section, these words, "nor less."

It passed in the negative—yeas 5, nays 29.

The yeas and nays being demanded,

Those who voted in the affirmative, are

Messrs. Baldwin, Byrd, Gilman, Wells and Woods.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Bair, Browne, Caldwell, Carpenter, Cutler, Darlington, Donalson, Dunlavy, Gatch, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, McIntire, Massie, Milligan, Morrow, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Woods and Worthington.

The said section was further amended at the secretary's table, and on the question that the convention do receive the said section, as amended, in the words following:

Sec. 19. The Legislature of this state shall not allow the following officers of Government greater annual salaries than as follows, until the year one thousand eight hundred and eight, to wit:

The Governor, not more than one thousand dollars. The Judges of the Supreme Court, not more than one thousand dollars each. The Secretary, not more than five hundred dollars. The auditor of public accounts, not more than seven hundred and fifty dollars. The Treasurer, not more than four hundred and fifty dollars. No member of the Legislature shall receive more than two dollars per day during their attendance on the Legislature, nor more for every twenty-five miles he shall travel in going to, and returning from the General Assembly.

It was resolved in the affirmative—yeas 21, nays 13.

The yeas and nays being demanded,

Those who voted in the affirmative, are

Messrs. Abrams, Bair, Browne, Caldwell, Carpenter, Darlington, Donalson, Dunlavy, Gatch, Grubb, Humphrey, Kirker, Kitchel, Milligan, Morrow, Paul, Sargent, Smith, Updegraff, Wilson and Worthington.

Those who voted in the negative, are

Messrs. Abbot, Baldwin, Byrd, Cutler, Gilman, Goforth, Huntington, McIntire, Massie, Putnam, Reily, Wells and Woods.

The said article was further amended at the Secretary's table, and with the amendments, was ordered to lie on the table.

The convention, according to order of the day, resolved itself into a committee of the whole convention, on the seventh article of the con-

sstitution, comprehending the general regulations and provisions of the constitution, Mr. Smith in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Smith reported that the committee had, according to order, had the said article under consideration, and made some progress therein.

Resolved, That the convention will, to-morrow, again resolve itself into a committee of the whole convention, on the said article.

And then the convention adjourned until to-morrow morning, nine o'clock.

SATURDAY, November 20, 1802.

The convention, according to the order of the day, again resolved itself into a committee of the whole convention, on the seventh article of the constitution, comprehending the general regulations and provisions of the constitution, Mr. Smith in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Smith reported, that the committee had, according to order, again had the said article under consideration, and made several amendments thereto, which he delivered in at the Secretary's table.

Ordered, That the said article, with the amendments, do lie on the table.

The convention proceeded to consider the amendments reported on the tenth instant, from the committee of the whole convention, to the second article of the constitution, on the supreme executive authority, and the same being read, were agreed to by the convention.

The said article was further amended at the Secretary's table, and, together with the amendments, ordered to lie on the table.

The convention proceeded to consider the amendments reported on the twelfth instant, from the committee of the whole convention, to the bill of rights; and the same being read, some were agreed to, and others disagreed to.

A motion was then made to amend the said bill of rights, at the Secretary's table, by striking out after the word 'convicted,' in the fourth line of the second section, the words following: 'nor shall any male person arrived at the age of twenty-one years, or female person arrived at the age of eighteen years, be held to serve any person as a servant, under pretence of indenture or otherwise, unless such person shall enter into such indenture while in a state of perfect freedom, and on condition of a *bona fide* consideration, received or to be received for their service, except as before excepted.'

And on the question thereupon, it passed in the negative—yeas 12, nays 21.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Bair, Caldwell Dunlavy, Grubb, Kitchel, Morrow, Paul, Reily, Sargent, Smith and Wilson.

Those who voted in the negative, are

Messrs. Abrams, Baldwin, Browne, Byrd, Carpenter, Cutler, Darlington, Donalson, Gatch, Gilman, Goforth, Humphrey, Huntington, Kirker, M'Intire, Milligan, Putnam, Updegraff, Wells, Woods and Worthington.

Another motion was then made further to amend the said section, by inserting after the word 'convicted,' in the fourth line of the said section, the words following: 'nor shall there be either slavery or involuntary servitude, ever admitted in any state, to be erected on the north-west side of the River Ohio, within the limits of the United States, except as above excepted.'

And on the question thereupon, it passed in the negative—yeas 2, nays 31.

The yeas and nays being demanded, those who voted in the affirmative, are.

Messrs. Paul and Reily.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Baldwin, Bair, Browne, Byrd, Caldwell, Carpenter, Cutler, Darlington, Donalson, Dunlavy, Gatch, Gilman, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, M'Intire, Milligan, Morrow, Putnam, Sargent, Smith, Updegraff, Wells, Wilson, Woods and Worthington.

Another motion was then made further to amend the said article by striking out after the word 'and,' in the ninth and tenth lines of the 3d section, the words following: 'no religious test shall be required as a qualification to any office of trust or profit,' and to insert in lieu thereof the words, 'no person who denies the being of a God, or a future state of rewards and punishment, shall hold any office in the civil department of this State.'

And on the question thereupon, it passed in the negative—yeas 3, nays 30.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Caldwell, Humphrey and Milligan.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Baldwin, Bair, Browne, Byrd, Carpenter, Cutler, Darlington, Donalson, Dunlavy, Gatch, Gilman, Goforth, Grubb, Huntington, Kirker, Kitchel, M'Intire, Morrow, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Wells, Wilson, Woods and Worthington.

Another motion was then made, further to amend the said article by inserting a new section, between the twenty-second and twenty-third sections, in the words following:

That the laying taxes by the poll is grievous and oppressive; therefore the legislature shall never levy a poll tax for county or state purposes.

And on the question that the convention do agree to the same, it was resolved in the affirmative—yeas 26, nays 7.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Abrams, Baldwin, Bair, Browne, Byrd, Caldwell, Carpenter, Darlington, Donalson, Dunlavy, Goforth, Grubb, Huntington, Kirker, Kitchel, Milligan, Morrow, Paul, Sargent, Smith, Wells, Wilson, Woods and Worthington.

Those who voted in the negative, are

Messrs. Gatch, Gilman, Humphrey, M'Intire, Putnam, Reily, and Updegraff.

Another motion was made further to amend the said article, and debate arising thereon, an adjournment was called for.

And then the convention adjourned until Monday morning, ten o'clock.

MONDAY, November 22d, 1802.

The convention resumed the consideration of the amendments reported on the twelfth instant, from the committee of the whole Convention, to the bill of rights, and the same being further amended was ordered to lie on the table.

The convention proceeded to consider the amendments reported on the seventeenth instant, from the committee of the whole Convention, to the third article of the constitution, on the judiciary: whereupon,

Ordered, that the said article be recommitted to a committee of the whole Convention, to-morrow.

The convention proceeded to consider the amendments reported on the sixteenth instant, from the committee of the whole Convention, to the fourth article of the constitution, designating the qualifications of electors, and the same being read, were agreed to by the convention.

A motion was then made further to amend the said article, at the Secretary's table, by striking out, after the word "all," in the first line of the first section, the word "white."

And on the question thereupon, it passed in the negative—yeas 14, nays 19.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Browne, Cutler, Dunlavy, Gatch, Gilman, Goforth, Grubb, Kitchel, Paul, Putnam, Sargent, Updegraff, Wells, and Wilson.

Those who voted in the negative, are

Messrs. Abrams, Baldwin, Bair, Byrd, Caldwell, Carpenter, Darlington, Donaldson, Humphrey, Huntington, Kirker, M'Intire, Massie, Milligan, Morrow, Reily, Smith, Woods, and Worthington.

Another motion was then made further to amend the said section, by striking out after the word "election," in the third line, the words following,—“and who have paid, or are charged with, a state or county tax.”

And on the question thereupon, it passed in the negative—yeas 8, nays 26.

The yeas and nays being demanded, those who voted in the affirmative are

Messrs. Baldwin, Bair, Browne, Caldwell, Grubb, Milligan, Sargent, and Worthington.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Byrd, Carpenter, Cutler, Darlinton, Donaldson, Dunlavy, Gatch, Gilman, Goforth, Humphrey, Huntington, Kirker, Kitchel, M'Intire, Massie, Morrow, Paul, Putnam, Reiley, Smith, Updegraff, Wells, Wilson, and Woods.

Another motion was then made further to amend the said section, by adding to the end of the section, a proviso, in the words following:

Provided, that all male negroes and mulattoes, now residing in this territory, shall be entitled to the right of suffrage, if they shall, within months, make a record of their citizenship.

And on the question thereupon, it was resolved in the affirmative—yeas 19, nays 15.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Byrd, Cutler, Darlinton, Dunlavy, Gatch, Gilman, Goforth, Grubb, Kitchel, Morrow, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Wells, and Wilson.

Those who voted in the negative are

Messrs. Abams, Baldwin, Bair, Browne, Caldwell, Carpenter, Donaldson, Humphrey, Huntington, Kirker, M'Intire, Massie, Milligan, Woods, and Worthington.

Another motion was then made further to amend the said section, by adding to the end of the section a proviso, in the words following:

And provided, also, that the male descendants of such negroes and mulattoes as shall be recorded, shall be entitled to the same privilege.

And on the question thereupon, it passed in the negative—yeas 16, nays 17.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Browne, Byrd, Cutler, Darlinton, Dunlavy, Gilman, Goforth, Grubb, Kitchel, Morrow, Paul, Putnam, Sargent, Updegraff, Wells, and Wilson.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Baldwin, Bair, Caldwell, Carpenter, Donaldson, Humphrey, Huntington, Kirker, M'Intire, Massie, Milligan, Reily, Smith, Woods, and Worthington.

The said article was further amended at the Secretary's table, and with the amendments, ordered to lie on the table.

The convention proceeded to consider the amendments reported on

the sixteenth instant, from the committee of the whole Convention, to the fifth article of the constitution, declaring the manner in which militia officers shall be chosen or appointed, and the same being read, were agreed to by the convention.

The said article was further amended at the Secretary's table, and, with the amendments, was ordered to lie on the table.

The convention proceeded to consider the amendments, reported on the twentieth instant, from the committee of the whole convention, to the seventh article of the constitution, comprehending the general regulations and provisions of the constitution, and the same being read, some were agreed to and others disagreed to.

A motion was then made, further to amend the said article at the Secretary's table, by striking out, after the word "that," in the fifth line of the fifth section, these words, "a majority," and insert in lieu thereof, these words, "two-thirds."

And on the question thereupon, it passed in the negative—yeas 1, nays 33.

The yeas and nays being demanded, the vote in the affirmative was,

Mr. Kirker.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Baldwin, Bair, Browne, Byrd, Caldwell, Carpenter, Cutler, Darlington, Donalson, Dunlavy, Gatch, Gilman, Goforth, Grubb, Humphrey, Huntington, Kitchel, M'Intire, Massie, Milligan, Morrow, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Wells, Wilson, Woods and Worthington.

Another motion was then made, further to amend the said article by adding a new section, as the seventh section, in the words following:

SEC. 7. No negro or mulatto shall ever be eligible to any office, civil or military, or give their oath in any court of justice, against a white person, be subject to do military duty, or pay a poll tax in this State; Provided always, and it is fully understood and declared, that all negroes and mulattoes, now in, or who may hereafter reside in this State, shall be entitled to all the privileges of citizens of this State, not excepted by this constitution.

And on the question thereupon, it was resolved in the affirmative—yeas 19, nays 16.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abrams, Baldwin, Bair, Byrd, Caldwell, Carpenter, Darlington, Donalson, Grubb, Humphrey, Kirker, M'Intire, Massie, Milligan, Morrow, Smith, Tiffin, Woods and Worthington.

Those who voted in the negative, are

Messrs. Abbot, Browne, Cutler, Dunlavy, Gatch, Gilman, Goforth, Huntington, Kitchel, Paul, Putnam, Reily, Sargent, Updegraff, Wells and Wilson.

The said article was further amended at the Secretary's table, and with the amendments, was ordered to lie on the table.

And then the convention adjourned until to-morrow morning, ten o'clock.

TUESDAY, November 23d, 1802.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the third article of the constitution, on the judiciary, Mr. Baldwin in the chair; and after some time spent therein, Mr. President resumed the chair, and Mr. Baldwin reported, that the committee had, according to order, had the said article under consideration, and made several amendments thereto, which he delivered in at the Secretary's table: Whereupon,

Ordered, that the said article, with the amendments, do lie on the table.

The convention proceeded to consider the amendments reported on the eighteenth instant, from the committee of the whole convention, to the schedule to the constitution, and the same being read, were agreed to by the convention.

A motion was made, further to amend the said article at the Secretary's table, by striking out, after the word "and," in the fourth line of the seventh section, the word "eight," and insert in lieu thereof, the word "ten."

And on the question thereupon, it was resolved in the affirmative—yeas 19, nays 14.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Browne, Byrd, Carpenter, Cutler, Donalson, Dunlavy, Goforth, Kirker, Kitchel, Massie, Morrow, Paul, Putnam, Reily, Smith, Wells, Wilson, Woods and Worthington.

Those who voted in the negative, are

Messrs. Abbot, Baldwin, Bair, Caldwell, Darlington, Gatch, Gilman, Grubb, Humphrey, Huntington, M'Intire, Milligan, Sargent, and Updegraff.

Another motion was then made, further to amend the said section, by striking out after the word "to" in the third line of the said section, the word "four," and insert in lieu thereof, the word "five."

And on the question thereupon, it was resolved in the affirmative—yeas 17, nays 16.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Browne, Byrd, Carpenter, Cutler, Donalson, Dunlavy, Goforth, Kitchel, Massie, Morrow, Paul, Reily, Smith, Wells, Wilson, Woods and Worthington.

Those who voted in the negative, are

Messrs. Abbot, Baldwin, Bair, Caldwell, Darlington, Gatch, Gilman, Grubb, Humphrey, Huntington, Kirker, M'Intire, Milligan, Putnam, Sargent and Updegraff.

The said section being still under consideration, in the words following :

SEC. 7. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution, the county of Hamilton shall be entitled to five senators and ten representatives; the county of Clermont, one senator and two representatives; the county of Adams, two senators and three representatives; the county of Ross, two senators and five representatives; the county of Fairfield, one senator and two representatives; the county of Washington, two senators and four representatives; the county of Belmont, one senator and two representatives; the county of Jefferson, two senators and five representatives; the county of Trumbull, one senator and two representatives: Provided, that no new county shall be entitled to a separate representation, prior to the first enumeration.

A motion was made to strike out the said section, and to insert in lieu thereof, a section in the words following:

Sec. 7. Until the first enumeration shall be made, as directed in the second section of the first article of this constitution, the county of Hamilton shall be entitled to three senators and six representatives; the county of Clermont, one senator and one representative; the county of Adams, one senator and three representatives; the county of Ross, two senators and four representatives; the county of Fairfield, one senator and one representative; the county of Washington, one senator and three representatives; the county of Belmont, one senator and one representative; the county of Jefferson, one senator and three representatives; the county of Trumbull, one senator and two representatives: Provided, no new county shall be entitled to a separate representation, prior to the first enumeration.

And on the question thereupon, it passed in the negative—yeas 10, nays 23.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Browne, Darlington, Donalson, Gatch, Huntington, Kirker, Kitchel, Massie and Morrow.

Those who voted in the negative, are

Messrs. Baldwin, Bair, Byrd, Caldwell, Carpenter, Cutler, Dunlavy, Gilman, Goforth, Grubb, Humphrey, McIntire, Milligan, Paul, Putnam, Reily, Sargent, Smith, Updegraff, Wells, Wilson, Woods and Worthington.

Another motion was then made further to amend the said section, by striking out after the word "to," in the third line, the word "five," and insert in lieu thereof, the word "four."

And on the question thereupon, it was resolved in the affirmative—yeas 26, nays 7.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Baldwin, Bair, Browne, Caldwell, Carpenter, Cutler, Darlington, Donalson, Dunlavy, Gatch, Gilman, Grubb, Humphrey, Huntington, Kirker, McIntire, Massie, Milligan, Putnam, Sargent, Updegraff, Wells, Wilson, Woods and Worthington.

Those who voted in the negative, are

Messrs. Byrd, Goforth, Kitchel, Morrow, Paul, Reily and Smith.

Another motion was then made that the convention do receive the said section, with the amendments last aforesaid.

And on the question thereupon, it was resolved in the affirmative—yeas 21, nays 12.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Baldwin, Bair, Caldwell, Carpenter, Cutler, Gatch, Gilman, Grubb, Huntington, Kirker, McIntire, Massie, Milligan, Putnam, Sargent, Smith, Updegraff, Wells, Wilson, Woods and Worthington.

Those who voted in the negative, are

Messrs. Abbot, Browne, Byrd, Darlington, Donalson, Dunlavy, Goforth, Humphrey, Kitchel, Morrow, Paul and Reily.

The said article was further amended at the Secretary's table, and with the amendments, was ordered to lie on the table.

And then the convention adjourned until to-morrow morning, eleven o'clock.

WEDNESDAY, November 24th, 1802.

Mr. Gatch, from the committee to whom was referred the propositions made by Congress to the convention, for their acceptance or rejection, made a report, which was received and read the first time : Whereupon,

Resolved, That the convention will immediately resolve itself into a committee of the whole convention, on the said report.

The convention accordingly resolved itself into the said committee, Mr. Goforth in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Goforth reported, that the committee had, according to order, had the said report under consideration and made some progress therein : Whereupon,

Resolved, That the convention will, to-day, again resolve itself into a committee of the whole convention, on the said report.

And then the convention adjourned until three o'clock, P. M.

The convention met at three o'clock, P. M.

The convention, according to the order of the day, again resolved itself into a committee of the whole convention, on the report of the committee to whom was referred the propositions made by Congress to the convention, for their acceptance or rejection, Mr. Browne in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Browne reported, that the committee had, according to order, again had the said report under consideration, and had directed him to report their disagreement to the same.

Ordered, That the said report do lie on the table.

And then the convention adjourned until to-morrow morning, ten o'clock.

THURSDAY, November 25, 1802.

The convention proceeded to consider the amendments reported on Tuesday last, from the committee of the whole convention, to the third article of the constitution, on the Judiciary: Whereupon,

Ordered, That the said article be recommitted to a committee of the whole convention immediately.

The convention accordingly resolved itself into the said committee, Mr. Byrd in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Byrd reported, that the committee had, according to order, had the said article under consideration and made several amendments thereto, which he delivered in at the Secretary's table.

Ordered, That the said article, with the amendments, do lie on the table.

On motion, The first article of the constitution was taken up and read the third time, in order for its final passage.

A motion was made to strike out in the 19th section, the words following: "The Legislature of this state shall not allow the following officers of government greater annual salaries than as follows, until the year one thousand eight hundred and eight, to wit: the Governor, not more than one thousand dollars; the Judges of the supreme court, not more than one thousand dollars each; the Presidents of the courts

of common pleas, not more than eight hundred dollars each; the Secretary of State, not more than five hundred dollars; the Auditor of public accounts, not more than seven hundred and fifty dollars; the Treasurer, not more than four hundred and fifty dollars.

And on the question thereupon, it passed in the negative—yeas 11, nays 21.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Baldwin, Byrd, Cutler, Gilman, Goforth, M'Intire, Massie, Putnam, Smith, Wells and Woods.

Those who voted in the negative, are

Messrs. Abbot, Bair, Browne, Caldwell, Darlington, Donalson, Dunlavy, Gatch, Grubb, Humphrey, Huntington, Kirker, Kitchel, Milligan, Morrow, Paul, Reily, Sargent, Updegraff, Wilson and Worthington.

The said article was further amended at the Secretary's table, and on the question that the convention do receive the said article as amended, it was resolved in the affirmative.

On motion, The second article of the constitution, on the supreme executive authority, was taken up and read the third time, in order for its final passage, and on the question, that the convention do receive the said article, it was resolved in the affirmative.

And then the convention adjourned until to-morrow morning, ten o'clock.

FRIDAY, November 26, 1802.

On motion, Ordered, That a committee of five be appointed to prepare an address to the President of the United States and both branches of the Federal Legislature, expressive of the high sense this convention entertain of the cheerful and philanthropic manner in which they made provision for the admission of this state into the Union, and expressive of their approbation of the present administration of the general government.

And a committee was appointed of Mr. Goforth, Mr. Byrd, Mr. Massie, Mr. Huntington and Mr. Baldwin.

On motion, The fourth article of the constitution, designating the qualifications of electors, was taken up and read the third time, in order for its final passage.

A motion was made to amend the said article, by striking out after the word "election," in the seventh line of the first section, the words following: "Provided, That all male negroes and mulattoes now residing in this territory, shall, at the age of twenty-one years, be entitled to the right of suffrage, if they shall, within one year, make a

record of their citizenship with the clerk of the county in which they may reside; and, provided also, that they have paid or are charged with a state or county tax."

And on the question thereupon, it was resolved in the affirmative—yeas 17, nays 17.

The convention being equally divided, and Mr. President declaring himself with the yeas.

The yeas and nays being demanded, were as follows:

YEAS—Messrs. Abrams, Baldwin, Bair, Caldwell, Carpenter, Darlington, Grubb, Humphrey Huntington, Kirker, M'Intire, Massie, Milligan, Smith; Woods and Worthington.

NAYS—Messrs. Abbot, Browne, Byrd, Cutler, Dunlavy, Gatch, Gilman, Goforth, Kitchel, Morrow, Paul, Putnam, Reily, Sargent, Updegraff, Wells and Wilson.

Another motion was then made, further to amend the said article, by striking out the fifth section, which follows, in these words, to wit:

"Sec. 5. Nothing contained in this article shall be so construed as to prevent white male persons, above the age of twenty-one years, who are compelled to labor on the roads of their respective townships or counties, and who have resided one year in the state, from having the right of an elector."

And on the question thereupon, it passed in the negative—yeas 13, nays 21.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Cutler, Gilman, Goforth, Huntington, Kirker, M'Intire, Massie, Putnam, Reily, Updegraff, Wells and Woods.

Those who voted in the negative, are

Messrs. Abrams, Baldwin, Bair, Browne, Byrd, Caldwell, Carpenter, Darlington, Donalson, Dunlavy, Gatch, Grubb, Humphrey, Kitchel, Milligan, Morrow, Paul, Sargent, Smith, Wilson and Worthington.

On motion, that the convention do receive the said article as amended, it was resolved in the affirmative.

The convention proceeded to consider the amendments reported on yesterday, from the committee of the whole convention, to the third article of the constitution, on the judiciary, and the same being read, were agreed to by the convention.

The said article was further amended at the secretary's table, and, with the amendments, was ordered to lie on the table.

On motion, the fifth article of the constitution, declaring the manner in which militia officers are to be chosen or appointed, was taken up and read the third time, in order for its final passage.

And on the question that the convention do receive the said article, it was resolved in the affirmative.

On motion, the sixth article of the constitution, designating the

manner in which sheriffs, coroners, and certain other civil officers are chosen or appointed, was then taken up and read the third time, in order for its final passage.

And on the question that the convention do receive the said article, it was resolved in the affirmative.

On motion, the seventh article of the constitution, comprehending the general regulations and provisions of the constitution, was taken up and read the third time, in order for its final passage.

A motion was then made to amend the said article at the secretary's table, by striking out, after the word "contents," in the fifth line of the third section, the words following: "No new county shall be established by the legislature, which is not entitled by its numbers to a representative."

And on the question thereupon, it was resolved in the affirmative—yeas 22, nays 12.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Abrams, Bair, Browne, Carpenter, Darlinton, Donalson, Dunlavy, Gatch, Grubb, Humphrey, Huntington, Kirker, Kitchel, M'Intire, Paul, Putnam, Reily, Updegraff, Wilson, Woods and Worthington.

Those who voted in the negative are

Messrs. Baldwin, Byrd, Caldwell, Cutler, Gilman, Goforth, Massie, Milligan, Morrow, Sargent, Smith and Wells.

Another motion was then made further to amend the said section by striking out after the word "than," in the fourth line, the word "four," and insert in lieu thereof the word "five."

And on the question thereupon, it passed in the negative—yeas 11, nays 23.

The yeas and nays being demanded, those who voted in the affirmative are

Messrs. Abbot, Caldwell, Cutler, Gilman, M'Intire, Massie, Putnam, Reiley, Sargent, Smith and Wells.

Those who voted in the negative are

Messrs. Abrams, Baldwin, Bair, Browne, Byrd, Carpenter, Darlinton, Donalson, Dunlavy, Gatch, Goforth, Grubb, Humphrey, Huntington, Kirker, Kitchel, Milligan, Morrow, Paul, Wilson, Woods and Worthington.

Another motion was then made, further to amend the said article by striking out after the word "that," in the first line of the fifth section, these words, "after the year one thousand eight hundred and six."

And on the question thereupon, it passed in the negative—yeas 12, nays 21.

The yeas and nays being demanded, those who voted in the affirmative are

Messrs. Abbot, Abrams, Cutler, Gilman, Huntington, M'Intire, Paul, Putnam, Reily, Updegraff, Wells and Woods.

Those who voted in the negative are

Messrs. Baldwin, Browne, Byrd, Caldwell, Carpenter, Darlinton, Donalson, Dunlavy, Gatch, Goforth, Grubb, Humphrey, Kirker, Kitchel, Massie, Milligan, Morrow, Sargent, Smith, Wilson and Worthington.

Another motion was then made further to amend the said article by striking out the seventh section in the words following:

Sec. 7. But no negro or mulatto shall ever be eligible to any office, civil or military, or give their oath in any court of justice against a white person, be subject to do military duty, or pay a poll tax in this state; provided always, and it is fully understood and declared, that all negroes and mulattoes now in, or who may hereafter reside in this state, shall be entitled to all the privileges of citizens of this state, not excepted by this constitution.

And on the question thereupon, it was resolved in the affirmative—yeas 17, nays 16.

The yeas and nays being demanded, those who voted in the affirmative are

Messrs. Abbot, Browne, Cutler, Dunlavy, Gatch, Gilman, Goforth, Huntington, Kitchel, Milligan, Paul, Putnam, Reily, Sargent, Updegraff, Wells and Wilson.

Those who voted in the negative are

Messrs. Abrams, Baldwin, Bair, Byrd, Caldwell, Carpenter, Darlinton, Donalson, Grubb, Humphrey, Kirker, Massie, Morrow, Smith, Woods and Worthington.

A motion was made and seconded to amend the said article by adding a new section, as the seventh section, in the words following:

Sec. 7. No negro or mulatto shall ever be eligible to any office, civil or military, or be subject to do military duty.

The previous question was called for by three members, to wit: "Shall the main question to receive the said section be now put?"

And on the previous question, shall the main question be now put? it was resolved in the negative.

The said article was further amended at the Secretary's table.

And on the question being put, that the convention do receive the said article, as amended, it was resolved in the affirmative.

On motion, The eight article of the constitution was taken up and read the third time, in order for its final passage.

A motion was made to amend the said article, by inserting after the word "indenture," in the tenth line of the second section, these words, "of any negro or mulatto."

And on the question thereupon, it was resolved in the affirmative—yeas 20, nays 13.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Browne, Byrd, Caldwell, Carpenter, Darlinton, Gatch, Gilman, Goforth, Humphrey, Huntington, Kirker, Kitchel, Massie, Morrow, Putnam, Smith, Updegraff, Wells and Worthington.

Those who voted in the negative, are

Messrs. Abrams, Baldwin, Bair, Donalson, Dunlavy, Grubb, M'Intire, Milligan, Paul, Reily, Sargent, Wilson and Woods.

Another motion was then made, further to amend the said article, by striking out after the word "worship," in the eighth and ninth lines, the words, "and no religious test shall be required as a qualification to any office of trust or profit."

And on the question thereupon, it passed in the negative—yeas 6, nays 28.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Caldwell, Cutler, Gilman, Humphrey, Morrow and Putnam.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Baldwin, Bair, Browne, Byrd, Carpenter, Darlinton, Donalson, Dunlavy, Gatch, Goforth, Grubb, Huntington, Kirker, Kitchel, M'Intire, Massie, Milligan, Paul, Reily, Sargent, Smith, Updegraff, Wells, Wilson, Woods and Worthington.

The said article was further amended at the Secretary's table.

And on the question that the convention do receive the said article as amended,

It was resolved in the affirmative.

On motion, The schedule to the constitution was taken up and read the third time, in order for its final passage.

The said schedule was further amended at the Secretary's table.

And on the question that the convention do receive the said schedule as amended,

It was resolved in the affirmative.

And then the convention adjourned until to-morrow morning, ten o'clock.

SATURDAY, November 27th, 1802.

Mr. Goforth, from the committee appointed to prepare an address to the President of the United States, and both branches of the Federal Legislature, expressive of the high sense the convention entertain of the cheerful and philanthropic manner in which they made pro-

vision for the admission of this state into the Union; and expressive of their approbation of the present administration of the general government, made a report, which was received and read the first time.

On motion, The said report was read the second time, and on the question thereupon, agreed to by the Convention, in the words following:

To the President and both Houses of Congress of the United States:

The Convention of the state of Ohio, duly appreciating the importance of a free and independent state government, and impressed with sentiments of gratitude to the Congress of the United States, for the prompt and decisive measures taken at their last session, to enable the people of the north-western territory, to immerge from their colonial government, and to assume a rank among the sister states, beg leave to take the earliest opportunity of announcing to you this important event; on this occasion the convention cannot help expressing their unequivocal approbation of the measures pursued by the present administration of the general government, and both houses of Congress, in diminishing the public burthens, cultivating peace with all nations, and promoting the happiness and prosperity of our country.

Resolved, That the President of this convention, do inclose to the President of the United States, to the President of the Senate, and to the Speaker of the House of Representatives of the United States, the foregoing address.

On motion, The third article of the constitution was taken up and read the third time, in order for its final passage.

A motion was made, further to amend the said article, at the Secretary's table, by striking out after the word "himself," in the eighth line of the ninth section, the words following: "They shall be removable for breach of good behavior, at any time, by the Judges of the respective courts."

And on the question thereupon, it passed in the negative—yeas 13, nays 20.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Browne, Caldwell, Darlinton, Donalson, Dunlavy, Grubb, Milligan, Morrow, Paul, Reily, Smith, Wilson and Worthington.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Baldwin, Byrd, Carpenter, Cutler, Gatch, Gilman, Goforth, Humphrey, Huntington, Kirker, Kitchel, M'Intire, Massie, Putnam, Sargent, Updegraff, Wells and Woods.

The said article was further amended at the Secretary's table.

And on question, that the convention do receive the said article as amended, it was resolved in the affirmative.

On motion, ordered, That the constitution now framed, be engrossed.

On motion, the report of the committee of the whole convention, on Thursday last, on their disagreement to the report of the select committee, to whom was referred the propositions made by Congress to the convention for their acceptance or rejection, was taken up and read: Whereupon,

Ordered, That the said report be recommitted to Mr. Putnam, Mr. Smith, Mr. Huntington, Mr. Massie and Mr. Wells, who are to report their opinion thereupon.

Mr. Putnam, from the committee to whom was recommitted the propositions made by congress to the convention, for their acceptance or rejection, made a report, which was received and read the first time: Whereupon,

Ordered, That the said report be committed to a committee of the whole convention, on Monday next.

And then the convention adjourned until Monday morning, nine o'clock.

MONDAY, November 29, 1802.

The convention, according to the order of the day, resolved itself into a committee of the whole convention, on the report of the select committee, to whom was recommitted the propositions made by Congress to the convention, for their acceptance or rejection, Mr. Wells in the chair, and after some time spent therein, Mr. President resumed the chair, and Mr. Wells reported that the committee of the whole convention had, according to order, had under their consideration, the said report and made several amendments thereto, which he delivered in at the Secretary's table.

The convention proceeded to consider the said amendments, and the same being read, some were agreed to and others disagreed to.

The preamble to the said report being under consideration, in the words following:

"We, the representatives of the people of the eastern division of the territory north-west of the river Ohio, being assembled in convention, pursuant to an act of Congress, entitled 'an act to enable the people of the eastern division of the territory north-west of the river Ohio, to form a constitution and state government, and for the admission of such state into the Union, on an equal footing with the original states, and for other purposes,' and having had under consideration the propositions offered by said act, for our free acceptance or rejection, do resolve to accept of the said propositions provided the fol-

lowing addition to, and modification of the said propositions, shall be agreed to by the Congress of the United States, viz:

A motion was made and seconded to strike out the proviso to the said preamble, in the words following: Provided the following addition to, and modification of the said propositions, shall be agreed to by the Congress of the United States, viz:

The previous question was called for by three of the members, to wit:

Shall the main question to strike out the proviso be now put?

And on the previous question, shall the main question be now put, it was resolved in the negative—yeas 11, nays 22.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Baldwin, Byrd, Caldwell, Carpenter, Darlington, Donalson, Gatch, Grubb, Kirker, Massie, and Sargent.

Those who voted in the negative, are

Messrs. Abbot, Abrams, Bair, Browne, Cutler, Dunlavy, Gilman, Goforth, Humphrey, Huntington, Kitchel, McIntire, Milligan, Morrow, Paul, Putnam, Reily, Smith, Updegraff, Wells, Wilson, and Woods.

On motion, ordered, That a committee be appointed to prepare and report a resolution for ascertaining the fees of the officers of the convention, and that Mr. Reily, Mr. Browne, and Mr. Goforth, be the said committee.

On motion, ordered, That a committee be appointed to prepare and report a resolution on the subject of distributing the journals and constitution in the several counties, and that Mr. Dunlavy, Mr. Paul and Mr. Bair, be the said committee.

Mr. Reily, from the committee appointed to prepare and report a resolution for ascertaining the fees of the officers of the convention, made a report, which was received and read the first time and agreed to by the convention, in the words following, to wit:

Resolved, That there be allowed to the Secretary of this convention the sum of three dollars per day; to the assistant Secretary, the sum of three dollars per day; and to the door keeper, the sum of one dollar and fifty cents per day, for their services respectively, during their attendance on the convention.

Mr. Dunlavy, from the committee appointed to prepare and report a resolution on the subject of distributing the journals of the convention and the constitution, made a report, which was received and read the first time, and agreed to by the convention, in the words following:

Resolved, That the following number of copies of the journal of the convention and of the constitution of the state of Ohio, be sent by the printer, to be put in the possession of the members of this convention, to be distributed by them for the information of the people in their respective counties, to wit:

To the county of Adams, sixty copies of the journal, and eighty-eight copies of the constitution, to be sent to Israel Donalson. To the county of Belmont, forty copies of the journal and sixty copies of the constitution, to be sent to James Caldwell, at St. Clairsville. To the county of Clermont, forty copies of the journal and sixty copies of the constitution, to be sent to Roger Warren. To the county of Fairfield, forty copies of the journal and sixty copies of the constitution, to be sent to Emanuel Carpenter. To the county of Hamilton, two hundred copies of the journal, and two hundred and eighty copies of the constitution, to be sent to John Reily. To the county of Jefferson, one hundred copies of the journal, and one hundred and forty copies of the constitution, to be sent to John Ward. To the county of Ross, one hundred copies of the journal, and one hundred and forty copies of the constitution, to be sent to Edward Tiffin. To the county of Trumbull, forty copies of the journal, and sixty copies of the constitution, to be sent to Calvin Pease. To the county of Washington, eighty copies of the journal, and one hundred and twelve copies of the constitution, to be sent to Benjamin Ives Gilman.

On motion,

Resolved, That the Secretary of the convention be authorized to deliver the engrossed constitution, to the President, to be by him kept until a Secretary of State shall be elected and duly qualified; after which it shall be the duty of the President, to deliver the said constitution to the Secretary of State, to be by him filed in his office.

On motion,

Resolved, That the constitution be ratified by the convention.

And thereupon, the following members ratified and subscribed their names to the constitution, to wit:

EDWARD TIFFIN, *President*,
And *Representative from the county of Ross*.

From Adams county—Joseph Darlinton, Israel Donalson and Thomas Kirker.

From Belmont county—James Caldwell and Elijah Woods.

From Clermont county—Philip Gatch and James Sargent.

From Fairfield county—Henry Abrams and Emanuel Carpenter.

From Hamilton county—John W. Browne, Charles Willing Byrd, Francis Dunlavy, William Goforth, John Kitchel, Jeremiah Morrow, John Paul, John Reily, John Smith and John Wilson.

From Jefferson county—Rudolph Bair, George Humphrey, John Milligan, Nathan Updegraff and Bazaleel Wells.

From Ross county—Michael Baldwin, James Grubb, Nathaniel Massie and T. Worthington.

From Trumbull county—David Abbot and Samuel Huntington.

From Washington county—Ephraim Cutler, Benjamin Ives Gilman, John M'Intire and Rufus Putnam.

A motion was made and seconded, that the convention adjourn until the Tuesday of March next.

And on the question thereupon, it passed in the negative—yeas 8, nays 24.

The yeas and nays being demanded, those who voted in the affirmative, are

Messrs. Abbot, Abrams, Bair, Browne, Humphrey, Huntington, Putnam and Smith.

Those who voted in the negative, are

Messrs. Baldwin, Byrd, Caldwell, Carpenter, Cutler, Darlinton, Donalson, Dunlavy, Gatch, Gilman, Goforth, Grubb, Kirker, Kitchel, M'Intire, Massie, Milligan, Morrow, Paul, Reily, Sargent, Updegraff, Wells and Wilson.

And then the convention adjourned *sine die*.

ATTEST,

THOMAS SCOTT, *Secretary*.

QUESTIONS OF ORDER

Decided in the House, on appeal from the decision of the Chair.

Mr. Pennington then moved to suspend the rules requiring the reading of the journal until the motion laid upon the table last evening by the adjournment is taken up and disposed of.

Mr. Roedter moved to proceed to the orders of the day.

The chair decided the motion to be out of order.

From this decision Mr. Roedter took an appeal.

The question was, "shall the decision of the chair stand as the judgment of the House?"

On which question the yeas and nays were demanded and ordered, and resulted yeas 55, nays 8, as follows:

YEAS—Messrs. Armstrong, Bigger, Brainerd, Brewer, Bundy, Chaffee, Cockerill, Copeland, Dalzell, Dodds, Dresbach, Durbin, Foster, Franks, Giddings, Green, Gregory, Hambleton, Hammond, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Johnson of Medina, Jones, Julian, Keller, King, Lee, Leiter, Long, Marsh, McClure, Miller, Monfort, Moore, Morrow, Morris, Morse, Mott, Olds, Pennington, Phillips, Randall, Riddle, Scott, Sheldon, Smith of Brown, Smith of Madison, Townshend, Van Doren, Vorhes, Watt, Whiteley and Woodford—55.

NAYS—Messrs. Burt, Edson, Norris, Potter, Ringwood, Roedter, Truman and Van Buskirk—8.

So the decision of the Speaker was sustained. [See pages 81, 82.]

Mr. Pennington moved to suspend the rules, to give him an opportunity to submit a resolution with reference to the correction of the journal, which was read for the information of the House.

Mr. Roedter raised a point of order, as follows: "Any motion made before the reading of the journal of the previous day is not in order."

Which the Speaker overruled.

Mr. Roedter appealed from the decision of the chair.

The question being, "shall the decision of the chair stand as the judgment of the House?"

Mr. Green demanded the yeas and nays thereon, which were ordered and resulted yeas 31, nays 29, as follows:

YEAS—Messrs. Bigger, Brainerd, Bundy, Chaffee, Dodds, Foster, Giddings, Green, Gregory, Hambleton, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Jones, Julian, Lee, Marsh, McClure, Morse, Olds, Pennington, Phillips, Randall, Riddle, Scott, Smith of Madison, Townshend, Van Doren, Watt and Woodford—31.

NAYS—Messrs. Armstrong, Brewer, Burt, Cockerill, Dalzell, Dresbach, Durbin, Edson, Franks, Johnson of Medina, Keller, King, Lester, Long, Miller, Monfort, Moore, Morrow, Morris, Mott, Norris, Potter, Ringwood, Roedter, Sheldon, Smith of Brown, Van Buskirk, Vorhes and Whiteley—29.

So the decision of the chair was sustained. [See page 83.]

The question being then on the motion to suspend the rule, Mr. Pennington demanded the yeas and nays thereon, which being ordered, resulted yeas 32, nays 30, as follows:

YEAS—Messrs. Bigger, Brainerd, Bundy, Chaffee, Copeland, Dodds, Foster, Giddings, Green, Gregory, Hambleton, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Jones, Julian, Lee, Marsh, McClure, Morse, Olds, Pennington, Phillips, Randall, Riddle, Scott, Smith of Madison, Townshend, Van Doren, Watt and Woodford—32.

NAYS—Messrs. Armstrong, Brewer, Burt, Cockerill, Dalzell, Dresbach, Durbin, Edson, Franks, Johnson of Medina, Keller, King, Lester, Long, Miller, Monfort, Moore, Morrow, Morris, Mott, Norris, Potter, Ringwood, Roedter, Sheldon, Smith of Brown, Van Buskirk, Vorhes, Whiteley and Speaker—30.

The Speaker decided that it required an unanimous vote of the House to suspend the rules; and that the motion, therefore, was lost.

From this decision Mr. Pennington took an appeal, as follows:

The Speaker decides that it takes the unanimous consent of the House to suspend the rules, the House having, by a majority vote, decided on suspending the rule, I claim that the rule is suspended; and, therefore, appeal from the decision of the chair.

The question being, "Shall the decision of the Chair stand as the judgment of the House?"

The yeas and nays were demanded thereon, and being ordered, resulted yeas 31, nays 31, as follows:

YEAS—Messrs. Armstrong, Brewer, Burt, Cockerill, Dalzell, Dresbach, Durbin, Edson, Franks, Johnson of Medina, Keller, King, Lester, Long, Miller, Monfort, Moore, Morrow, Morris, Mott, Norris, Pot-

ter, Ringwood, Roedter, Sheldon, Smith of Brown, Townshend, Van Buskirk, Vorhes, Whiteley and Speaker—31.

NAYS—Messrs. Bigger, Brainerd, Bundy, Chaffee, Copeland, Dodds, Foster, Giddings, Green, Gregory, Hambleton, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Jones, Julian, Lee, Marsh, McClure, Morse, Olds, Pennington, Phillips, Randall, Riddle, Scott, Smith of Madison, Van Doren, Watt and Woodford—31.

So the decision of the Speaker was not sustained. [See pages 84, 85.]

Mr. Holcomb moved to suspend the rules so as to allow him to introduce a bill without previous notice.

The yeas and nays being demanded on the motion, were ordered and resulted, yeas 42, nays 23, as follows:

YEAS—Messrs. Armstrong, Bigger, Brainerd, Brewer, Bundy, Burt, Chaffee, Cockerill, Dodds, Dresbach, Edson, Foster, Giddings, Green, Hambleton, Hammond, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Julian, Lee, Leiter, Marsh, Morris, Olds, Pennington, Phillips, Potter, Rockwell, Randall, Riddle, Scott, Smith of Brown, Thompson, Townshend, Van Doren, Vorhes, Watt, Whiteley, Woodford and Speaker—42.

NAYS—Messrs. Copeland, Dalzell, Durbin, Franks, Gregory, Johnson of Medina, Keller, Larimer, Long, McClure, Miller, Monfort, Moore, Morrow, Morse, Mott, Myers, Norris, Reber, Ringwood, Roedter, Smith of Madison, Truman and Van Buskirk—23.

The Speaker decided the motion to suspend the rules lost, the unanimous consent of the House being necessary for that purpose.

From this decision Mr. Leiter appealed.

The question then being, Shall the decision of the chair stand as the judgment of the House?

Mr. Smith, of Brown, demanded the yeas and nays thereon, which were ordered, and resulted yeas 35, nays 32, as follows:

YEAS—Messrs. Armstrong, Brewer, Burt, Cockerill, Dalzell, Dresbach, Durbin, Edson, Franks, Johnson of Medina, Keller, King, Larimer, Leiter, Long, Miller, Monfort, Moore, Morrow, Morris, Morse, Mott, Myers, Norris, Potter, Ringwood, Roedter, Riddle, Smith of Brown, Townshend, Truman, Van Buskirk, Vorhes, Whiteley and Speaker—35.

NAYS—Messrs. Bigger, Brainerd, Bundy, Chaffee, Copeland, Dodds, Foster, Giddings, Green, Gregory, Hambleton, Hammond, Hardesty,

Holcomb, Howard, Johnson of Cuyahoga, Julian, Lee, Marsh, McClure, Olds, Pennington, Phillips, Randall, Reber, Rockwell, Scott, Smith of Madison, Thompson, Van Doren, Watt and Woodford—32.

So the decision of the chair was sustained. [See pages 125, 126.]

The chair announced the special order of the day to be the consideration of the following resolution:

Resolved, That George E. Pugh and Alexander N. Pierce are constitutionally elected to the office of Representatives in this General Assembly, from the county of Hamilton, and that they therefore now be permitted to take their seats.

Mr. Pennington raised a point of order, which he reduced to writing, as follows:

A question having been made the special order for to-day, the question cannot be reached until the morning business, under the rule of the House, is gone through with, it is out of order to entertain any motion until the House reaches the order of the day.

The Speaker decided that the House having, by a vote yesterday, resolved to proceed to consider a certain resolution at a certain hour this day, and that hour having arrived, no other business was in order until the resolution was disposed of.

From which decision of the chair, Mr. Pennington took an appeal to the House.

Mr. Roedter moved to lay the appeal on the table.

On which question, Mr. Holcomb demanded the yeas and nays, which were ordered, and resulted yeas 31, nays 33, as follows:

YEAS—Messrs. Armstrong, Brewer, Cockerill, Dalzell, Dresbach, Durbin, Edson, Franks, Johnson of Medina, Keller, King, Larimer, Leiter, Long, Miller, Monfort, Moore, Morrow, Morris, Morse, Mott, Myers, Norris, Potter, Ringwood, Roedter, Smart, Smith of Brown, Terman, Vorhes and Whiteley—31.

NAYS—Messrs. Bigger, Brainerd, Bundy, Chaffee, Copeland, Dodds, Foster, Giddings, Green, Gregory, Hambleton, Hammond, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Julian, McClure, Olds, Pennington, Phillips, Randall, Reber, Riddle, Rockwell, Scott, Smith of Madison, Thompson, Townshend, Van Doren, Watt, Will and Woodford—33.

So the motion to lay on the table was lost.

The question then recurring, Shall the decision of the chair stand as the judgment of the House?

Mr. Holcomb demanded the yeas and nays, which were ordered, and resulted yeas 33, nays 32, as follows:

YEAS—Messrs. Armstrong, Brewer, Cockerill, Dalzell, Dresbach,

Durbin, Edson, Frankt, Johnson of Medina, Keller, King, Larimer, Leiter, Long, Miller, Monfort, Moore, Morrow, Morris, Morse, Mott, Myers, Norris, Potter, Ringwood, Roedter, Smith of Brown, Townshend, Truman, Vorhes, Whiteley and Speaker—33.

NAYS—Messrs. Bigger, Brainerd, Bundy, Chaffee, Copeland, Dodds, Foster, Giddings, Gregory, Hambleton, Hammond, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Julian, Lee, McClure, Olds, Pennington, Phillips, Randall, Reber, Riddle, Rockwell, Scott, Smith of Madison, Thompson, Van Doren, Watt, Will and Woodford—32.

The House, upon a motion to that effect, refusing to excuse the Speaker from voting on the appeal. [See pages 176, 177.]

Mr. Roedter moved to take up the motion to reconsider H. No. 118, further to amend the act to establish a Commercial Hospital and Lunatic Asylum for the State of Ohio, passed January 22, 1841.

The Speaker decided that the motion to reconsider was not on the table.

From this decision Mr. Holcomb took an appeal.

* * * * *

The question then recurred on Mr. Holcomb's point of order, which was reduced to writing, as follows, to wit:

"A motion was made by a member voting in the affirmative, upon the passage of House bill No. 118, within two days after the passage of said bill, to reconsider the vote by which said bill was passed. A motion was then made to lay the motion to reconsider that vote upon the table, pending which, a motion was made to adjourn, and carried. Upon a motion to take up from the table the motion to reconsider the vote upon the passage of the bill, the Speaker decided that the pending motions when the House adjourned were not laid upon the table; from which decision an appeal is taken."

The question then being, "shall the decision of the chair stand as the judgment of the House?" the same was put, and carried in the affirmative.

So the decision of the chair was sustained. [See pages 375, 376.]

Mr. Norris raised the following point of order:

It is not in order to introduce a second resolution upon a given subject while there is pending another resolution of exactly the same character undisposed of.

The Speaker overruled the point of order, whereupon,

Mr. Smith of Brown appealed from the decision of the chair.

The question being, "shall the decision of the chair stand as the judgment of the House?" after debate,

Mr. Pennington moved to lay the appeal on the table.

The question then being on laying the appeal on the table, the yeas and nays were demanded, ordered and resulted, yeas 37, nays 27, as follows:

YEAS—Messrs. Brainerd, Chaffee, Copeland, Durbin, Dodds, Foster, Giddings, Green, Hambleton, Hammond, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Julian, Jones, King, Lee, McClure, Morse, Olds, Pennington, Phillips, Reber, Riddle, Rockwell, Roedter, Scott, Smith of Madison, Thompson, Townshend, Truman, Vorhes, Van Buskirk, Van Doren, Watt and Will—37.

NAYS—Messrs. Armstrong, Brewer, Bigger, Bundy, Cockerill, Dallsell, Dresbach, Edson, Franks, Gregory, Johnson of Medina, Larimer, Miller, Monfort, Moore, Morrow, Morris, Mott, Myers, Norris, Pierce, Potter, Pugh, Ringwood, Smart, Smith of Brown, and Whiteley—27.

So the motion prevailed and the appeal was laid on the table. [See page 487.]

Mr. Monfort, from a select committee, reported a bill which the Speaker decided to be out of order, inasmuch as a joint resolution had passed both branches of the General Assembly prohibiting the introduction of bills from and after the 16th inst.

From this decision of the chair Mr. Monfort took an appeal to the House.

The question then being, "shall the decision of the chair stand as the judgment of the House?"

Mr. Smith of Madison moved to lay said appeal on the table.

On which motion the yeas and nays were demanded, and being ordered, resulted yeas 47, nays 7, as follows:

YEAS—Messrs. Armstrong, Brainerd, Brewer, Burt, Chaffee, Cockerill, Copeland, Dodds, Dresbach, Durbin, Foster, Franks, Green, Gregory, Hambleton, Hammond, Hardesty, Johnson of Medina, Jones, Julian, Keller, King, Larimer, Lee, Leiter, McClure, Miller, Morrow, Morse, Myers, Olds, Pennington, Phillips, Randall, Reber, Ringwood, Rockwell, Smith of Madison, Scott, Smart, Thompson, Truman, Van Doren, Watt, Whiteley, Will and Woodford—47.

NAYS—Messrs. Bigger, Edson, Monfort, Morris, Norris, Pierce and Pugh—7.

So the motion prevailed and said appeal was laid on the table. [See page 706.]

The question being on agreeing to the title of the same,
Mr. Roedter moved to amend as follows:
Strike out the title and insert,

“A bill to spoil the new State House and to fleece the State of Ohio, for the benefit of Joseph Ridgway, jr., and his associated two State House commissioners.”

The Speaker decided said amendment to be out of order.

From which decision of the chair Mr. Roedter appealed.

The question then being “shall the decision of the chair stand as the judgment of the House?”

Mr. Larimer demanded the yeas and nays thereon, which were ordered and resulted, yeas 49, nays 8, as follows:

YEAS—Messrs. Brainerd, Brewer, Bundy, Chaffee, Copeland, Dallsell, Dodds, Edson, Foster, Franks, Giddings, Green, Gregory, Hambleton, Hammond, Hardesty, Holcomb, Johnson of Medina, Julian, Keller, King, Larimer, Lee, McClure, Morris, Morrow, Morse, Moore, Myers, Norris, Olds, Pierce, Pennington, Phillips, Randall, Reber, Riddle, Rockwell, Scott, Smart, Smith of Brown, Smith of Madison, Thompson, Townshend, Van Buskirk, Van Doren, Watt, Whiteley and Woodford—49.

NAYS—Messrs. Cockerill, Leiter, Miller, Monfort, Mott, Pugh, Roedter and Truman—8.

So the decision of the chair was sustained. [See pages 664, 665.]

Mr. Dimmock moved that the Senate retire to their chamber.
Lost.

Mr. Smith of Brown moved that the House adjourn.

The Speaker decided that said motion was not in order.

Mr. Smith of Brown appealed from the decision of the chair.

The question then being "shall the decision of the chair stand as the judgment of the house?"

The yeas and nays were demanded, and being ordered resulted—yeas 42, nays 18, as follows :

YEAS—Messrs. Bigger, Brainerd, Bundy, Chaffee, Dodds, Dresbach, Edson, Foster, Giddings, Green, Gregory, Hambleton, Hammond, Hardesty, Holcomb, Howard, Johnson of Cuyahoga, Johnson of Medina, Jones, Julian, Lee, Leiter, McClure, Morrow, Morse, Moore, Olds, Pennington, Phillips, Reber, Riddle, Rockwell, Scott, Smart, Smith of Madison, Thompson, Townshend, Truman, Van Buskirk, Van Doren, Watt and Will—42.

NAYS—Messrs. Armstrong, Brewer, Burt, Cockerill, Dalzell, Durbin, Franks, King, Miller, Monfort, Mott, Norris, Pierce, Potter, Ringwood, Rædter, Smith of Brown and Vorhes—18.

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- 206. To incorporate the town of Milan in Erie county, 245, 254, 463, 484, 549, 704.
- 207. To authorize the trustees of Upper township, Lawrence county, to levy taxes for certain purposes, 245, 254, 463, 479, 618, 654.
- 208. To amend the act to incorporate the Steubenville & Indiana railroad company, 255, 263, 483, 471, 489, 511, 618, 680.
- 209. Further to amend the act incorporating the city of Cincinnati, passed March 1, 1834, 255, 263, 462, 681.
- 210. To amend an act entitled an act to incorporate the Franklin and Springboro Turnpike company, in the county of Warren, 255, 263, 484, 604, 681.
- 211. To lay out and establish a free turnpike road from Middletown and West Alexandria turnpike to the West Elkton turnpike, 255, 263, 373, 374, 382, 508, 551.
- 212. To amend the act entitled an act to levy a tax on the income of practicing lawyers and physicians, 255, 263, 501, 532.
- 213. To amend the act entitled an act for the support and better regulation of common schools, and to create permanently the office of superintendent, passed March 7, 1838, 255, 263, 463, 470, 489, 618, 654.

BILLS OF THE HOUSE—*Continued.*

Number.

- 214. To amend the act to extend the corporate limits of the town of Circleville, and to amend the act incorporating said town, passed February 7, 1842, 255, 263, 500, 676.
- 215. To incorporate the town of Millwood, Guernsey county, 255, 263.
- 216. To authorize the town council of Miamisburg, to levy a tax to construct a free turnpike road, 255, 264, 501, 550, 676, 759.
- 217. To authorize the sale of school section sixteen, in Madison township, Williams county, 256, 264, 322, 330, 341, 508, 551.
- 218. To authorize the sale of certain school lands in Muskingum county, 256, 264, 501, 550, 631, 680.
- 219. To incorporate the Alexander Presbyterian Church of Hibbardsville, in the county of Athens, 256, 264, 501, 550, 650.
- 220. To authorize the sale of school lands belonging to Pitt township, Wyandot county, 256, 264, 501, 618, 681.
- 221. To incorporate the German Evangelical Lutheran, and German Reformed United Protestant Congregation of Seneca township, Seneca county, Ohio, 256, 264, 344, 353, 508, 551.
- 222. Repealing the act entitled an act incorporating the town of Benton, in the county of Crawford, 256, 264, 355, 484, 466, 511, 618, 681.
- 223. To lay out and establish the West Elkton free turnpike road, 256, 264, 283, 289, 312, 412, 482.
- 224. To provide for the appointment of trustees to minors residing out of this State having property within the same, 265, 278, 423, 500, 534, 549, 729, 758.
- 225. To repeal an act entitled an act to incorporate the State Bank of Ohio and other banking companies, 265, 278, 500.
- 226. To incorporate the Sharon railroad company, 265, 278, 322, 370, 382, 393, 407, 508, 551.
- 227. Amendatory of the act entitled an act supplementary to the act pointing out the mode of levying taxes, passed March 14, 1831, 265, 279, 423, 472, 534, 549, 788.
- 228. To incorporate the Mt. Pleasant Academy in Kingston, Ross county, 265, 279, 500, 550, 678, 759.
- 229. To lay out and establish a State road in the counties of Jackson and Athens, 266, 290, 471, 501, 550, 666, 717.
- 230. To extend the corporate limits of the town of Mount Sterling, in the county of Madison, 268, 279, 461, 556, 582, 631, 680.
- 231. Concerning the docket of Jeremiah Moore, deceased, 269, 279, 500, 535, 549, 738.
- 232. To incorporate the Circleville, Darbyville and London Turnpike Road company, 269, 279, 500, 512, 534, 549, 665, 717.
- 233. To amend the act punishing certain criminal practices, passed February 17, 1831, 280, 292, 500, 550.
- 234. Concerning escheated property in the county of Hamilton, 280, 292, 463, 495.

BILLS OF THE HOUSE—Continued.

Number.

- 235.** To incorporate the Dry Ridge Universalist Society of Greene township, Hamilton county, 280, 292, 464, 479, 618, 654.
- 236.** To incorporate the Ripley and Locust Grove Turnpike company, 281, 292, 322, 355, 360, 604, 632, 681.
- 237.** To incorporate the town of Palestine, in the county of Darke, 294, 298, 463, 669, 694, 749, 795.
- 238.** To amend the act entitled an act for the appointing notaries public, passed February 7, 1816, 294, 298, 463, 669, 694, 749, 795.
- 239.** To incorporate the Warren county Farmer's Mutual Fire Insurance company, 294, 298, 344, 471, 489, 567, 573, 631, 680.
- 240.** To incorporate the Trumbull, Portage & Geauga plank road company, 294, 298, 396, 413, 430, 431, 465, 484, 631, 680.
- 241.** To attach South and Middle Bass Islands to Erie county, 294, 298, 463, 479, 697.
- 242.** To amend the act to provide for the settlement of the estates of deceased persons, passed March 23, 1840, 299, 310, 464, 513.
- 243.** To amend the act passed February 24, 1848, entitled an act to amend an act entitled an act for the support and better regulation of common schools, and to create permanently the office of Superintendent, and for other purposes, passed March 7, 1838, and the acts amendatory thereto, 299, 310, 391, 407, 539, 603, 680.
- 244.** To re-establish the office of Superintendent of common schools, and for other purposes, 299, 311, 745.
- 245.** Providing for primary and superior schools in Harmer, 299, 310, 463, 490.
- 246.** To exempt from taxation all lands used for roads and canals, 299, 310, 463, 467, 479, 534.
- 247.** To extend the corporate limits of the town of Clarrington, in the county of Monroe, 301, 310, 550, 678, 758.
- 248.** To authorize the commissioners of Marion county, to subscribe stock in railroad companies, 302, 310, 344, 355, 362, 396, 435.
- 249.** To incorporate the Cincinnati, Batavia & Williamsburg railroad company, 303, 310, 423, 439, 454, 632, 680.
- 250.** To lay out and establish a State road from Liberty township, in Putnam county, to the Van Buren, Independence & Ridgeville free turnpike road, in Henry county, 303, 310, 462, 467, 489, 618, 654.
- 251.** To authorize the commissioners of the counties of Madison and Fayette, to subscribe to the capital stock of the Madison and Fayette Turnpike company, 313, 325, 462, 479.
- 252.** Confirming the charter of the Covington and Cincinnati Bridge company, incorporated by an act of the General Assembly of Kentucky, passed February 17, 1846, with certain limitations, 313, 325, 355, 360, 387, 599, 747, 767.

BILLS OF THE HOUSE—*Continued.*

Number.

- 253. To incorporate the Darke County Medical Society, 313, 325, 463, 472, 489, 512, 632, 680.
- 254. Supplementary to an act entitled an act to incorporate the Washington Fire Engine co. of Mt. Vernon, passed February, 1848, 313, 325, 462, 556, 582, 665, 717.
- 255. To repeal an act entitled an act to lay out and establish a free turnpike therein named, 313, 325, 462, 489, 665, 717.
- 256. To protect public grounds and enclosures, and prevent certain animals from running at large, 313, 325, 374, 495, 550.
- 257. To authorize the sale of the northwest quarter of school section 16, in Buck township, Hardin county, 314, 325, 462, 470, 489, 618, 681.
- 258. To provide for the construction of a side-cut connecting the Wabash and Erie canal with the Maumee river at Napoleon, or a bridge across said river, 318, 325.
- 259. Granting the trustees and principal teacher of Greenfield Seminary in Highland county, authority to confer degrees, 318, 325, 374, 382, 431, 456.
- 260. To repeal an act entitled an act to amend an act entitled an act granting licenses, and regulating taverns, 319, 325, 685.
- 261. To amend an act entitled an act to authorize the trustees of townships in certain counties, to levy an additional tax, passed Feb. 22, 1848, 319, 325, 397, 436, 618, 681.
- 262. To amend the act to incorporate the Mad River & Great Miami railroad company, 328, 340, 462, 706, 725, 749, 777.
- 263. To amend the act entitled an act to amend the act for levying taxes on all property in this State according to its true value, passed March 2, 1846, and for other purposes, 328, 339, 373, 569, 599, 610, 728, 731.
- 264. To fix the times of holding the courts of common pleas in the eighth judicial circuit, 328, 339, 374, 393.
- 265. To repeal an act more effectually to prevent gambling, passed January 13, 1846, 328, 339, 462, 514, 714.
- 266. To suppress the Seneca county Bank, 328, 339, 462, 515, 706.
- 267. To suppress the City Bank of Sandusky, 328, 339, 462, 533.
- 268. Authorizing the mayor and common council of the town of Minster to levy a tax to pave side walks, 328, 339, 728.
- 269. To incorporate the Bentonville and New Market Turnpike company, 330*, 339, 462, 467, 480, 618, 681.
- 270. To authorize the sale of school lands in Elizabeth township, Lawrence county, 330, 339, 462, 470, 489, 490, 618, 681.
- 271. To incorporate the Mahoning plank road company, 330, 339, 462, 556, 582, 678, 717.
- 272. To amend an act entitled an act to incorporate the Portage County Mutual Insurance company, passed February 11, 1832, 342, 462, 556, 582, 678, 758.
- 273. To repeal an act entitled an act to abolish public executions, passed March 12, 1844, 342, 352, 462, 514.

* See Errata.

BILLS OF THE HOUSE—*Continued.*

- Number.**
- 274. To incorporate the Elizabethtown and Clevestown Turnpike company, 342, 352, 462, 480, 618, 654.
 - 275. To extend the corporate limits of the town of Mt. Gilead in Morrow county, 342, 353, 462, 484, 552, 632, 654.
 - 276. To authorize the trustees of Clay township, in Knox county, to re-district said township for school purposes, 342, 353, 462, 480, 618, 628, 680, 758.
 - 277. To exempt persons from paying tolls for travelling on the national road in certain cases, 342, 353, 461, 490.
 - 278. To expedite proceedings in chancery, 342, 353, 500, 595.
 - 279. To repeal parts of acts therein named, 342, 353, 461.
 - 280. To incorporate the Pickaway County Savings Institute, at Circleville, 342, 353, 505, 595, 598, 678, 759.
 - 281. To incorporate the town of Canfield, in the county of Mahoning, 342, 353, 498, 535, 549, 558, 632, 654.
 - 282. To create a special road district in Crawford county, 342, 353, 500, 669, 693, 738, 767.
 - 283. To revive an act to amend the act entitled an act regulating judgments and executions, passed March 4, 1842, and further to amend the act entitled an act defining the powers and duties of justices of the peace and constables in civil cases, passed January 19, 1843, 354, 355, 423, 505, 671.
 - 284. To amend the act to establish a graded State road in the counties of Gallia, Athens and Meigs, 354, 358, 505, 552, 666, 717.
 - 285. To amend an act entitled an act to lay out and establish a graded State road in the counties of Gallia and Jackson, 354, 358, 505, 552, 666, 717.
 - 286. To authorize Asahel Chittenden to surrender the lease for and become the purchaser of the east half of the southwest quarter of school section sixteen, in Scipio township, Seneca county, Ohio, 354, 358, 400, 407, 575, 610.
 - 287. To extend the time of payment of the purchase money of section 16, in township No. 3, U. S. R., Lucas county, 354, 358, 461, 470, 618, 654.
 - 288. To lay out and establish a free turnpike road from Defiance, in Defiance county, to the Indiana State line, at the point where the Fort Wayne road crosses said line in the county of Paulding, 354, 358, 462, 480, 618, 681.
 - 289. To amend the act entitled an act to incorporate the Urbana & Columbus railroad company, 354, 358, 666, 682, 748.
 - 290. To incorporate the Green and Mill Creek Township Turnpike company, 354, 358, 463, 480, 632, 654.
 - 291. Concerning the admission of attorneys and counsellors at law, 354, 358, 500.
 - 292. To amend the act entitled an act to regulate public shows, passed February 28, 1831, 355, 358, 498, 612, 638, 748, 785.
 - 293. To authorize the sale of certain forfeited lands in Wyandotte county, 355, 358, 506, 552, 678, 758.

BILLS OF THE HOUSE—Continued.**Number.**

- 294. To incorporate the St. John's Church of Evangelical Protestants of Beaver township, in the county of Pike, 356, 368, 499, 535, 549, 630.
- 295. To incorporate the Roman Catholic St. Peter's Association of the Germans of Cincinnati, 356, 359, 499, 535, 550, 630.
- 296. To amend an act entitled an act to amend an act to regulate judgments and executions at law, passed March 9, 1841, 356, 359, 506, 595.
- 297. To equalize taxation, 360, 366, 423, 506, 532, 571, 572.
- 298. To amend the act to encourage the organization of fire companies passed February 8, 1847, 360, 368, 506, 552, 678, 758.
- 299. To secure an early distribution and publication of the laws of a general nature, 360, 369, 765, 787, 795.
- 300. To provide for the payment of money to the county of Morrow by the township of Gilead, 360, 368, 498, 598, 610, 729, 734.
- 301. To repeal certain acts therein named, 360, 368, 506, 595, 610.
- 302. Prescribing the times of holding the courts of common pleas in the 18th judicial circuit, 360, 368, 499, 575, 582, 618, 681.
- 303. To erect the county of Orange, 362, 368, 616.
- 304. To incorporate the Cleveland & Twinsburgh plank road company, 362, 368, 606, 647, 656, 748, 777.
- 305. To lay out and establish a State road in the counties of Athens, Jackson and Gallia, 362, 368, 464, 470, 491, 618, 654.
- 306. For the relief of H. H. and J. B. Arkenbaugh, 362, 368, 464, 470, 780.
- 307. To attach sections one and two in Bloomfield township, Richland county, to Sandusky township in said county, 362, 368, 506, 552, 632, 654.
- 308. To incorporate the Geauga and Trumbull plank road company, 370, 381, 506, 608, 667, 694, 748, 784.
- 309. To amend the third section of an act passed February 24, 1848, entitled an act to incorporate the Great Western railroad company, 370, 381, 464, 467, 491, 618, 681.
- 310. To incorporate the Martinville & Bridgeport free turnpike road company, in Belmont county, 370, 381, 438, 455, 604, 681.
- 311. To authorize William McCullough to sell books and other stationery in any county in this State at auction, 371, 381, 461, 513.
- 312. To amend an act relating to wills, passed March 23, 1840, 385, 389, 505, 595.
- 313. To incorporate the Windham Library Association, 386, 389, 501, 552, 631.
- 314. To provide for the sale of the Z. and M. turnpike, and for the payment of the debts of the corporation, 387, 389.
- 315. To authorize the trustees of Xenia township, in Green county, to re-district said township for school purposes, 387, 389, 508, 552.

BILLS OF THE HOUSE—*Continued.*

Number.

316. To incorporate the Defiance Female Seminary in the county of Defiance, 387, 389, 591, 598, 610, 647, 770.
317. To extend the time of payment for school section 16, in Canton township, Stark county, 391, 406, 541, 550, 666, 717.
318. To incorporate the Higginsport, Russelville and Eckmansville turnpike road company, 391, 406, 541, 598, 610, 691, 759.
319. To amend the charter of Ohio City, 392, 406, 606, 612, 638, 748, 777.
320. To authorize the commissioners of Clermont and Hamilton counties to levy a tax to erect a bridge across the Little Miami river at Symmestown, in Hamilton county, 392, 406, 541.
321. To amend an act entitled an act to incorporate the town of Gettysburgh, in the county of Darke, 392, 406.
322. To incorporate the St. Salem's Church of Evangelical Protestants of Scioto township, Jackson county, 393, 407, 499, 500, 552, 631.
323. To authorize the Governor to make deeds to certain school lands in Meigs county, 408, 411, 612, 638, 729, 758.
324. Further to amend the act entitled an act to incorporate the town of Fairport, passed Mar. 14, 1836, 408, 411, 612, 638, 748, 795.
325. Making appropriations for the year 1849, 408, 411, 498, 566, 567, 568, 569, 582, 590, 690, 697, 717.
326. Concerning the sale of intoxicating liquors, 408, 411, 612, 638.
327. To incorporate the London and Mt. Sterling Turnpike company, 408, 411, 534, 550, 666, 717.
328. To incorporate the Black River & Amherst plank road company, 412, 426, 612, 640, 768.
329. To amend the act entitled an act to authorize Nathan Starr to sell and convey certain real estate, the property of the minor heirs of his late wife, Mary W. Starr, passed January 26, 1844, 412, 426, 614, 669, 693, 776, 785.
330. To incorporate the Akron plank road company, 415, 426, 606, 647, 656, 748, 785.
331. To authorize the commissioners of Wood county to levy an additional tax to make a certain State road, 415, 427, 612, 640.
332. Concerning the Commercial Hospital and Lunatic Asylum of Ohio, 437, 452.
333. To incorporate the Clifton, Cedarville and Jamestown Turnpike Road company, 438, 452, 606, 632, 610, 729, 767.
334. To incorporate the Warren & Gustavus plank road company, 438, 452, 512, 532, 594, 678, 758.
335. To incorporate the Hamilton and Mason Turnpike company, 439, 452, 612, 640, 729, 758.
336. To incorporate the M. E. Church of the town of Tarlton, Pickaway county, 439, 452, 615, 640, 748, 777.
337. To incorporate the town of New Burlington, in the counties of Clinton and Green, 439, 452, 612, 640, 785.

BILLS OF THE HOUSE—*Continued.*

Number.

- 338. To establish grades and enforcement of streets, roads and alleys, in the south east part of Millcreek township, Hamilton county, 439,* 452, 615, 675.
- 339. To incorporate Sidney Lodge No. 60, of the Independent Order of Odd Fellows, 439, 452, 612, 641, 678, 748.
- 340. To aid the Ohio & Mississippi railroad company, 439, 452, 615, 668.
- 341. To incorporate the Maumee & Toledo plank road company, 439, 452, 612, 642, 729, 769.
- 342. To incorporate the Middleport & Rutland plank road company, 439,* 452, 612, 642, 671, 785.
- 343. Further to amend the act entitled an act to incorporate the town of Fulton, in the township of Fulton, in Hamilton county, 457, 466, 598, 611, 750.
- 344. To amend the act entitled an act to regulate the sale of ministerial and school lands, and the surrender of permanent leases thereto, passed February 2, 1843, 457, 465, 615, 634, 644, 730, 776, 795.
- 345. To erect the county of National, 457, 465, 616.
- 346. To incorporate the Stillwater and Darke county turnpike company, 457, 466, 538, 550, 666, 717.
- 347. To enable corporations on the line of the Cincinnati & Sandusky telegraph company to subscribe to the capital stock of said company, 457, 465, 616, 691, 758.
- 348. Incorporating the Ohio Iron and Coal company, 457, 465, 615, 737, 749, 777.
- 349. To amend the act entitled an act to incorporate the St. Paris and Elizabethtown, Fletcher, Piqua and Covington Turnpike co., passed March 9, 1839, 458, 465, 612, 655, 748, 785.
- 350. To alter the plat of the village of Sullivan, in Ashland county, 458, 465, 535, 550, 787.
- 351. To authorise the commissioners of Stark county to subscribe stock to the Ohio and Pennsylvania railroad company, 458, 465, 591, 619, 640.
- 352. To authorize the courts of common pleas to hear and determine cases where injury may be done to private property, by virtue of any of the public works of this State, 458, 465, 614, 740, 771, 779.
- 353. To legalize the surrender of a lease by Luther Shepherd to certain ministerial lands therein named, 457, 466, 612, 655, 748.
- 354. To repeal the ninth section of the act entitled an act to incorporate the Milan & Richland plank road company, passed Jan. 31, 1845, 467, 479, 615, 668, 693, 752.
- 355. To amend the charter of the Cleveland, Columbus and Cincinnati Railroad company, 467, 479, 615, 668, 686.
- 356. To incorporate the New Richmond and Bethel Turnpike company, 471, 479, 612, 653, 748, 785.

BILLS OF THE HOUSE—*Continued.*

Number.

- 357. To repeal the provisions of an act passed February 14, 1848, entitled an act for the support and better regulation of common schools in the town of Akron, 481, 489, 591, 597, 672, 748, 785.
- 358. More effectually to secure the rights of married women, 481, 489, 614, 740, 754.
- 359. To extend the time of payment to purchasers of school section 16, in township 4, range 4, Warren county, 481, 489, 538, 550, 666, 717.
- 360. To amend an act for the limitation of actions, passed February 18, 1831, 481, 489, 614.
- 361. For the relief of the Roswell Beach and Wm. Fulton, 481, 489, 616.
- 362. To incorporate the New Burlington Division No. 44, Sons of Temperance, 484, 489, 612, 655, 730.
- 363. To amend an act making provisions for the incorporation of Cemetery Associations, passed February 24, 1848, and for other purposes, 491, 509, 615, 673, 693.
- 364. To incorporate the Dayton, Shakerville and Xenia Turnpike company, 491, 509, 615, 668, 673, 718, 725.
- 365. To incorporate the Rescue Fire Engine company No. 1, of the town of Bucyrus, 495, 509, 606, 632, 634, 655, 697, 758, 795.
- 366. To authorize the trustees of Berne township, Athens county, to lease certain school lands therein named, 496, 510, 612, 655, 748, 795.
- 367. To amend the act passed March 11, 1843, entitled an act for the support and better regulation of common schools, &c., 498, 511, 606, 655.
- 368. To revive the fourth and fifth section of a certain act therein named, 511, 548, 598, 611, 675.
- 369. To incorporate the Manchester and Bentonville Turnpike company, 534, 547, 737, 761, 766, 739, 795.
- 370. To erect the county of Wallhonding, 535, 548, 761.
- 371. To authorize the city council of Cincinnati to levy an additional tax in aid of the disabled firemen's fund, 535, 547, 615, 675, 693, 748, 795.
- 372. To incorporate the Sunfish railroad company, 554, 561, 596, 621, 691, 758.
- 373. To amend the act entitled an act to incorporate the State Bank of Ohio and other banking companies, passed February 24, 1845, and the acts amendatory thereof, passed February 24, 1848, 554, 561, 616, 643.
- 374. To amend the act entitled an act to incorporate the proprietors of the Cemetery of Spring Grove, passed Jan. 21, 1845, 554, 562, 672, 748, 785.
- 375. To authorize the Columbus and Sandusky turnpike company to sue the State, 558, 561, 598, 751.
- 376. To repeal the 9th and 11th sections of the act regulating Railroad companies, passed February 11, 1848, 558, 561, 614, 774.

BILLS OF THE HOUSE—*Continued.*

Number.

377. To exempt from levy and execution certain property therein named, 558, 561, 616, 633, 656, 671, 693, 750, 752.
378. To amend the act entitled an act for the improvement and repair of the Cincinnati and Carthage Road, and for other purposes, passed February 4, 1845, 563, 577, 729.
379. In relation to a new canal in the city of Dayton, 563, 578, 612, 656, 748, 779.
380. To provide for the completion of the new state house, and to repeal all acts, parts of acts and joint resolutions conflicting therewith, 563, 578, 608, 741.
381. To incorporate the Cuyahoga Falls plank road company, 573, 577, 586, 749, 777.
382. To amend an act entitled an act for the preservation and repair of the National road, &c., 576, 578, 668, 693, 730.
383. To authorize the town council of the town of Akron to levy a tax to liquidate the debts due from said town, 576, 578, 670, 695, 749, 777.
384. To incorporate the town of Frederick, in the county of Knox, 576, 578.
385. Changing the mode of electing members of the board of public works, 592, 608.
386. Concerning costs upon the Governor's requisitions, 595.
387. To amend the act entitled an act to repeal an act entitled an act for the support and better regulation of common schools, &c., 598, 686, 692, 749, 777.
388. To incorporate the Perrysburgh & Maumee Union Bridge company, 598, 617, 621, 691, 758.
389. To incorporate the First Associate Reform Church Society, in the town of Wellsville, county of Columbiana, 599, 608, 761, 767, 788, 795.
390. To authorize J. J. Higgins, guardian to the minor heirs of Thos. L. Hamer, to convey real estate to Katherine M. Hamer, 628, 635, 704, 789.
391. To authorize any turnpike company to construct their road in whole or in part with plank, 629, 635.
392. To authorize the sale of school section 16, in Wells township, Jefferson county, 629, 635, 704, 707, 725, 776, 777.
393. To incorporate the Bonsville and Warren Turnpike company, 648, 651, 704, 706, 725, 776, 785.
394. To incorporate the town of West Middleburgh, (Spring Hills,) in the county of Champaign, 656, 667, 710, 725, 749, 777.
395. To repeal the 39th section of an act to regulate the militia, passed March 12, 1844, 656, 667.
396. Further to amend the charter of the city of Cincinnati, 656, 667, 692, 710, 725, 749.
- 397.* To incorporate the Springfield Hotel company, 667, 692, 774.
- 398.* To aid in the erection of Union School Houses, in the town of Newark, 676, 692.

*See Errata.

BILLS OF THE SENATE.

COURTS—PRACTICE—JUDGMENTS AND EXECUTIONS.

Number.

- 37. Prescribing the times of holding the supreme court, 617, 619, 621, 705, 725.
- 46. Amendatory of the act entitled an act prescribing the times of holding the court of common pleas in the 12th judicial circuit, passed February 2, 1848, 174, 182, 189.
- 62. To amend the act entitled an act fixing the times of holding the court of common pleas in the 17th judicial circuit, passed February , 1848, 202, 205, 245.
- 88. To fix the times of holding the court of common pleas in the 8th judicial circuit, 207, 214, 241.
- 110. Fixing the times of holding the court of common pleas in the 7th judicial circuit, 259, 264, 269, 281.
- 174. Prescribing the times of holding the court of common pleas in the 5th judicial circuit, 396, 407, 482.
- 204. To amend the act entitled an act to fix the times of holding the court of common pleas in the 11th judicial circuit, passed February 7, 1848, 461, 466, 472, 546, 574, 579.
- 208. To amend the act entitled an act to fix permanently the times of holding the court of common pleas in the 2d judicial circuit, passed February 1849, 442, 452, 558, 563, 708.
- 253. To amend the act regulating judgments and executions, 747, 761, 767.
- 257. Amendatory to the act prescribing the times of holding the court of common pleas in the 14th judicial circuit, 590, 591, 603.
- 277. To amend an act entitled an act fixing the times of holding the court of common pleas in the 11th judicial circuit, 770.

CORPORATIONS—FIRE, HOTEL, HYDRAULIC, MANUFACTURING, NAVIGATING COMPANIES.

- 1. To incorporate the Western Reserve Farmers' Insurance company, 336, 340, 415, 436, 709, 738, 740, 757.
- 12. To incorporate the Springfield Hydraulic company in Clark county, 259, 264, 302, 543, 707.
- 40. To incorporate the City Insurance company of Cincinnati, 286, 292, 472, 545, 557, 578.
- 48. To incorporate the Mansfield Fire company No. 1, 259, 264, 464, 470, 480.
- 74. To amend the act entitled an act to incorporate the Medina county Mutual Fire Insurance company, passed March 16, 1841, 337, 340, 472, 545, 558, 563, 629, 672, 690.
- 94. To amend the act entitled an act to incorporate the Cincinnati Insurance Company, passed February 7, 1829, 304, 310, 472, 535, 553, 596.

BILLS OF THE SENATE—*Continued.*

Number.

- 95. To amend an act entitled an act to incorporate the Firemen's Insurance company, passed February 9, 1832, 304, 310, 472, 473, 484, 491.
- 96. To amend an act entitled an act to incorporate the Washington Insurance company of Cincinnati, passed March 14, 1836, 304, 310, 472, 473, 535, 553.
- 97. To amend an act entitled an act to incorporate the Manufacturer's Insurance company of Cincinnati, passed March 15, 1838, 304, 426, 472, 473, 535, 553, 603.
- 99. To incorporate the Zanesville Gas Light company, 394, 407, 472, 545, 611.
- 105. To incorporate the Marion Hall building company of Mt. Healthy, Hamilton county, Ohio, 394, 407, 472, 545, 633, 645.
- 192. To incorporate the Springfield Gas Light and Coke company, 497, 510, 563.
- 195. To amend an act to incorporate the Cleveland Gas Light and Coke company, 604, 608, 615, 673, 695.
- 299. To extend the corporate limits of the town of Medina, 507, 510, 613, 626.
- 239. To incorporate the Society of Savings, in the city of Cleveland, 617, 621, 685, 706, 726.
- 102. To incorporate the Cleveland Mutual insurance company, 337, 340, 472, 545, 737, 757, 770.

TOWNS AND CITIES.

- 75. To amend the act to incorporate the city of Cleveland, and the act amendatory thereto, passed March 20, 1846, 288, 292, 472, 544, 558, 563, 599, 601.
- 80. To amend the act entitled an act to incorporate the town of Mansfield, in the county of Richland, and repeal all acts now in force in relation thereto, passed March 13, 1843, 288, 293, 472, 545, 633, 642.
- 111. Further to amend the act incorporating the city of Cincinnati, passed March, 1834, 337, 340, 472, 545*, 599, 622.
- 125. To amend an act entitled an act to incorporate the town of Sidney, passed March, 1834, 394, 407, 545, 633, 642.
- 146. To incorporate the town of New Fort Ball, in Clinton township, Seneca county, 538, 547, 613, 622.
- 170. To extend the corporate limits of the town of Portsmouth, 372, 381, 472, 545, 737, 757.
- 213. To incorporate certain towns therein named, 507, 510, 535, 553.
- 214. To incorporate the town of Haysville in Ashland county, 461, 465, 466, 482, 491.
- 216. To incorporate the town of St. Mary's in Auglaize county, and to repeal certain acts, 602, 617.

* See Errata.

BILLS OF THE SENATE—Continued.

Number.

264. To amend the act to incorporate the Mayor and Trustees of the town of Hamilton, 631, 635, 683, 695, 732.

ASSOCIATIONS, COLLEGES, SOCIETIES, LITERARY AND RELIGIOUS.

11. To incorporate the Springfield Female Seminary in Clark county, 201, 205, 209, 354, 380.
 28. To incorporate the Evangelical Lutheran St. John's Congregation of Springfield, Clark county, Ohio, 201, 205, 210, 214.
 79. To amend the act to incorporate the Eclectic Medical Institute of Cincinnati, passed March 10, 1845, 259, 264, 472, 555, 563.
 103. To incorporate the Miller Academy, 337, 340, 424, 459, 466.
 107. To incorporate Toledo Lodge No. 144, of Free and Accepted Masons in the county of Lucas, 442, 451, 545, 705, 725.
 123. To incorporate the Trustees of the Pomroy Academy, 394, 407, 472, 545, 555, 563.
 124. To incorporate the Chillicothe Cemetery Association, 443, 452, 470, 480, 671, 690.
 166. To incorporate the Cadiz High School, 460, 466, 472, 546, 571, 579.
 173. To incorporate the Columbus Art Union, 460, 465, 472, 546, 563.
 181. To incorporate the Evangelical Synod of Ohio and adjacent States, 460, 466, 472, 546, 753, 766.
 182. To incorporate the Ohio Educational Society of the Evangelical Lutheran church, 460, 466, 472, 546, 555, 563, 599.
 234. To incorporate the Columbus Horticultural Society, 539, 548, 613, 627.
 264. To incorporate the Mansfield Female Seminary, in the county of Richland, 733, 741, 757.

BRIDGE COMPANIES, PLANK ROADS, &c.

17. To incorporate the Perrysburg and Findlay Plank Road company, 202, 205, 209, 214.
 20. To incorporate the Norwalk Plank Road company, 202, 205, 208, 215, 221.
 23. To amend the act to incorporate the Toledo Plank Road company, passed January 28, 1848, 334, 339, 472, 543, 563, 578.
 27. To incorporate the Painesville and Warren Plank Road company, 175, 182, 209, 319, 329, 363.
 58. To incorporate the Toledo and Woodville Plank Road company, 364, 368, 472, 543, 563, 578, 611, 620, 629, 631.
 66. To revive and amend the act for the incorporation of the Huron Plank Road company, passed February 19, 1845, 336, 340, 472, 543, 594, 671, 695, 732.

BILLS OF THE SENATE—Continued.

Number.

- 76. To incorporate the Lower Sandusky, Tiffin and Fort Ball Plank Road company, 442, 451, 472, 544, 705, 725, 738.
- 78. To incorporate the Lower Sandusky and Sandusky City Plank Road company, 288, 292, 472, 544, 601, 669, 698.
- 80. To incorporate the St. Marys and Wapakonnetta Plank Road company, 384, 368, 472, 543, 563, 564, 578, 603.
- 90. To incorporate the St. Marys and Willshire Plank Road company 461, 466, 483, 491, 511, 539.
- 98. To incorporate the Malta and Putnam Plank Road company, 335, 340, 472, 513, 554, 671, 695.
- 116. To incorporate the Warren and Lake Erie Plank Road company, 377, 381, 387, 390.
- 132. To incorporate the Conneaut and Youngstown Plank Road company, 372, 391, 397, 391, 416.
- 151. To incorporate the Cleveland and Willoughby Plank Road company, 372, 381, 472, 508, 512, 564, 535, 576, 579, 603.
- 161. To amend the act incorporating the Chagrin Falls and Cleveland Plank Road company, 601, 608, 615, 673, 695.
- 200. To incorporate the Columbus and Worthington Plank Road or Turnpike company, 730, 785, 741, 757.
- 222. To incorporate the Bellvue, Monroeville, Norwalk and Birmingham Plank Road company, 507, 510, 618, 636.
- 229. To incorporate the Eaton and New Madison Plank Road company, 539, 548, 613, 627.
- 242. To incorporate the New Philadelphia, Leesburgh and Cadiz Plank Road company, 617, 621, 667, 699, 730, 732.
- 244. To incorporate the Bucyrus and Shelby Plank Road company, 604, 630, 612.
- 259. To incorporate the Lower Sandusky and Rollersville Plank Road company, 631, 635, 667, 698.
- 265. To incorporate the Bryan Plank road company, 723, 729, 740.
- 272. To incorporate the Defiance and Findlay Plank road company, 729, 742, 776.

NEW CONSTITUTION.

- 5. To provide for ascertaining the will of the people of this State upon the question of calling a convention to amend or change the constitution of the same, 688, 651.

RAILROAD COMPANIES.

- 13. To incorporate the Springfield and Columbus Railroad Company, 178, 192, 232.
- 30. To amend the charter of the Huron and Oxford Railroad Company, 218, 223, 461, 467.

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Number.

49. To amend the charter of the Bellefontaine and Indiana Railroad company, 336, 340, 334, 360, 370.
61. To incorporate the Scioto Valley Railroad Company, 259, 264, 371, 382, 416.
67. To aid the Ohio and Mississippi Railroad Company, 665, 686.
92. To amend the act incorporating the Toledo, Sandusky and Michigan City Railroad Company, 305, 310, 543, 554, 594, 621, 630.
100. To amend the act to incorporate the Central Ohio Railroad Company, 304, 310, 472, 543, 554, 563.
114. Granting the right of way to the Junction Railroad Company, and extending its privileges, 336, 340, 472, 543, 554, 563.
121. To amend an act entitled an act to incorporate the Dayton, Lebanon and Deerfield Railroad Company, passed Feb. 6, 1847, and the acts amendatory thereto, passed Feb. 14, 1848, 364, 368, 423, 439, 456.
178. Further to amend the act regulating Railroad Companies, passed Feb. 11, 1848, 460, 465, 472, 544, 595, 626.
184. To incorporate the Delaware, Millford, Mechanicsburgh and Springfield Railroad Company, 497, 570, 534, 563.
185. To amend and reduce into one the several acts relating to the Cincinnati, Hamilton and Dayton Railroad Company, 604, 608, 647, 655.
217. To amend the charter of the Hillsborough and Cincinnati Railroad company, 497, 510, 606, 670, 698.
232. To incorporate the Iron Railroad company, 539, 548, 615, 668, 698.
258. To authorize subscription to the capital stock of the Bellefontaine and Indiana Railroad company, by towns and townships on the line of said road, 678, 711, 727.
259. To incorporate the Barnesville Railroad company, 691, 709, 727.

DEEDS, &c.

69. To authorize county surveyors to take acknowledgments of deeds, &c., 497, 511, 677.
180. Declaring valid a certain Sheriff's deed therein named, 728, 729, 739, 756.
198. To amend the act entitled an act to incorporate the Bellefontaine and Indiana Railroad company, 497, 510, 613, 626.

ENABLING ACTS.

91. To authorize the trustees of Springfield township, to subscribe money to aid in the erection of a Town Hall in Springfield, in the county of Clark, and to establish said Hall as the place of holding all elections in said township, 305, 311, 330, 341.

BILLS OF THE SENATE—*Continued.*

Number

- 35. To authorize the town council of Akron to levy a tax to liquidate the debts due from said town, 207, 213, 285, 438, 441, 456.
- 38. To authorize the town council of the town of Sidney, to subscribe to the capital stock of the Sidney and Waupakonneta Railroad company, 305, 310, 472, 545, 633, 642, 679.
- 81. To authorize the Council of the city of Cincinnati, to borrow money for the improvement and extension of the city water works, 337, 310, 472, 473, 535, 552.
- 104. To authorize the commissioners of Highland county, to subscribe to the capital stock of the Hillsborough and Cincinnati Railroad company, 336, 340, 424, 559, 598, 622, 630.
- 113. Authorizing the city of Cleveland to subscribe to the capital stock of the Cleveland and Pittsburgh Railroad company, 372, 381, 472, 543, 623, 630.
- 120. To authorize the city Council of Columbus to occupy a part of a certain street and alley therein mentioned for a market house, 417, 427, 472, 515, 571, 578.
- 142. To authorize the city of Cincinnati to build a Poor House, 364, 369, 670, 695.
- 145. To amend the act to authorize Muskingum county, and the town of Zanesville, to subscribe to the capital stock of the Central Ohio Railroad company, 364, 369, 472, 515, 633, 642, 679.
- 169. To authorize the Trustees of Marion and Jefferson townships, in the county of Clinton, to borrow money and for other purposes, 391, 407, 472, 545, 757, 765.
- 179. Authorizing the city Council of the city of Columbus, to lay out streets and alleys across the old Penitentiary lot in said city, 691, 704, 726.
- 180. To amend the act entitled an act to authorize the commissioners of Franklin county, and the town council of the city of Columbus, to subscribe stock to certain Railroad companies, 396, 407, 415.
- 186. To authorize the town council of Newark to subscribe to the capital stock of the Newark Plankroad company, 497, 510, 591, 630, 642.
- 228. Authorizing the commissioners of Scioto county to subscribe to the capital stock of the Scioto and Hocking Valley Rail Road Company, 602, 608, 622, 642, 654, 690.
- 248. Authorizing the commissioners of Fairfield county to subscribe stock in a Rail Road Company, passed Feb. 24, 1848, 662, 741, 756, 770, 775.

FREE TURNPIKE ROADS.

- 45. To lay out and establish a free turnpike road from Sidney to St. Marys, 507, 510, 613, 621, 648, 655.
- 47. To establish a free turnpike road from Carrollton, in Montgomery county, to Eaton, in Preble county, 259, 264, 373, 387, 388.

BILLS OF THE SENATE—*Continued.*

Number.

- 55. To incorporate the Sugar Valley and Camden free turnpike road, 283, 292, 373, 387, 389.
- 63. To establish a free turnpike road from Eaton, by way of West Florence, to the Indiana state line, on the Boston state road, 288, 292, 373, 387, 389, 416.
- 82. To amend the act entitled an act to establish a free turnpike road from Marysville, in Union county, to Kenton, in Hardin county, 258, 293, 472, 543, 554, 553.
- 84. To lay out and establish a free turnpike road from Newton, in Union county, to Delaware, in Delaware county, 304, 311, 330, 341, 361.
- 126. To lay out and establish a free turnpike road from the McCutchinsville road to the Maumee and Western Reserve road, in Wood county, 372, 381, 472, 544, 705.
- 166. To lay out and establish the Port Lawrence and Springfield free turnpike road, 497, 510, 613, 626, 655, 753.
- 176. To lay out and establish the Port Clinton and Toledo free turnpike road, 443, 452, 472, 514, 668, 686, 725.
- 263. To amend the act entitled an act appointing commissioners to lay out and establish a free turnpike road from Eaton to Sugar Valley, in Preble county, 748, 759.
- 266. To lay out and establish the Portage free turnpike road, in the county of Wood, 748, 761, 766.

MILITIA.

- 235. To organize the county of Ashland a separate brigade, 539, 548, 606, 642.

PUBLIC AND COUNTY OFFICERS.

- 134. To amend the act entitled "an act for the appointment of certain officers therein named," passed Feb. 17, 1831, 372, 381, 472, 544, 595, 622, 708.
- 238. In relation to Coroners Juries, 617, 621, 685, 705, 726.

LANDS—SALE OF, &c.

- 16. To provide for the sale of section 16, in Caryall township, Paulding county, 364, 368, 472, 544, 557, 592.
- 89. To authorize the sale of the north-west quarter of section No. 32, township 8, north range 12, east, in the county of Wood, 259, 264, 472, 544, 557, 578.
- 119. To authorize the sale of section 16, in Liberty township, Seneca county, 363, 368, 472, 544, 556, 563.

BILLS OF THE SENATE—Continued.

Number.

RELIEF ACTS.

- 9. For the relief of John Devine, James M. Snyder and William Sharp, 175, 182, 198, 266, 279.
- 32. Making William Leonidas Davidson the legal heir of William B. Maxey, deceased, 259, 264, 472, 484, 514, 634, 739, 754, 776.
- 57. Making Ophelia Piper the legal heir of Zadoch Tillotson, of Medina county, and changing the name of said Ophelia Piper to Caroline Tillotson, 288, 292, 423, 436.
- 65. For the relief of the Harrison, Trenton, Rochester and Bentonville Turnpike company, 259, 264, 472, 543, 554, 562.

ROAD, STATE AND TOWNSHIP TAX.

- 108. Regulating the time of performing labor on roads and highways, 364, 368, 472, 544, 649.
- 109. To lay out and establish a graded state road in the counties of Washington and Morgan, 336, 340, 471, 472, 480, 540.
- 129. To lay out and establish a state road in the counties of Geauga and Ashtabula, 305, 311, 319, 327, 363.
- 163. To amend the act entitled, an act to establish a graded state road in the counties of Meigs, Gallia and Jackson, passed January 28, 1848, 460, 466, 467.
- 261. To provide for the opening and repair of roads and highways on the East line of the State of Ohio, 629, 637, 651, 685, 694.

SCHOOLS, SCHOOL LANDS, &c.

- 25. To organize school district No. 7, in Liberty township, Clinton county, 175, 182, 219, 224.
- 41. For the better organization of public schools in cities, towns, &c., 363, 369, 386, 389, 416.
- 52. To amend the act for the support and better regulation of common schools, in the city of Columbus, passed February 3, 1848, 251, 255, 267, 281.
- 54. For the better support of common schools in Perrysburg, Wood county, 259, 264, 472, 544, 571, 578.
- 66. To provide for the sale of certain school lands therein named, situated in Washington township, Miami county, 363, 368, 472, 544, 558, 592.
- 77. To authorize the sale of school section 16, in Monroe township, Preble county, 363, 369, 387.
- 106. To authorize the school directors of district No. 13, in Jefferson township, Fayette county, to sell and convey certain real estate, 336, 340, 472, 544, 557, 592.
- 117. To provide for the sale of the Western Reserve school lands, 304, 311, 319.

BILLS OF THE SENATE—*Continued.*

Number.

- 138. To authorize the sale of certain school lands therein named, 372, 381, 472, 544, 557, 592.
- 197. To authorize the sale of school lands belonging to Madison township, (fractional) in Clark county, 461, 466, 472, 544, 557, 579.
- 223. To authorize the county Auditor of Holmes county to levy an additional tax in school district No. 9, Hardy township, for school purposes, 507, 510, 606, 671, 695.
- 226. To amend the act entitled "an act for the support and better regulation of common schools, and to create permanently the office of superintendent," passed March 7, 1838, and the act amendatory thereto, 539, 547, 615, 670, 692, 704, 714.
- 241. To extend the time of payment of the north west quarter of section 16, Perry township, Morrow county, 604, 608, 613, 618.
- 247. To amend the act entitled an act for the better organization of public schools in cities, towns, &c., passed Feb. 15, 1849, 631, 635, 643, 655.
- 269. To extend the time of payment of certain school lands, 691, 706, 728.

TURNPIKES.

- 25. To incorporate the Rossville and Millville Turnpike Road company, 174, 182, 201, 205.
- 29. To amend the act to incorporate the Ross county Turnpike company, passed February 19, 1848, 259, 264, 374, 384, 416.
- 31. To incorporate the Hamilton, Rossville, Millville and Scipio township road company, 175, 182, 224, 240.
- 60. To amend the charter of the Cincinnati, Lebanon and Springfield Turnpike company, 287, 292, 472, 545, 633, 642.
- 61. Supplementary to the act to incorporate the Troy and Newton Turnpike company, 305, 310, 543, 554, 563.
- 130. To amend the act entitled an act to incorporate the Ripley and Hillsborough Turnpike company, passed February 19, 1833, 377, 381, 472, 543, 594, 622, 673, 690.
- 131. To amend the act entitled an act to incorporate the Milford and Chillicothe Turnpike Road company, passed February 11, 1832, 377, 381, 472, 543, 594, 622, 673, 695, 732, 739, 760.
- 133. To incorporate the Springfield and Northampton Turnpike company, 394, 407, 472, 544, 668, 698.
- 136. To incorporate the South Charleston and Washington Turnpike company, 372, 381, 472, 544, 669, 698.
- 147. To incorporate the Columbus and Blendon Turnpike company, 394, 407, 472, 543, 594, 626.
- 155. To incorporate the Liberty township Turnpike company, 394, 407, 472, 543, 554, 563.
- 162. A bill further to amend the act incorporating the Wayne, Medina, and Cuyahoga Turnpike company, 507, 510, 613, 626.

BILLS OF THE SENATE—Continued.

Number.

- 194. To amend the act entitled an act to incorporate the Millville, Reilly and Miltonville Turnpike company, 497, 510, 613, 626.
- 231. To incorporate the Columbus and Groveport Turnpike company, 497, 510, 615, 671, 695.
- 243. To amend the several acts incorporating Turnpike companies, 619, 621, 685, 704, 727.
- 255. To incorporate the Four Mile and Seven Mile Turnpike company, 631, 635, 670, 698.

TAXATION—TAXES.

- 72. To provide for taxing certain lands sold by the United States, 304, 310, 472, 545, 555, 562.
- 83. To authorize the trustees of the townships in Brown county, to levy an additional road tax, 288, 292, 322, 330, 341.
- 101. To amend the act passed March 2, 1846, to tax money brokers, 677, 692, 706, 725.
- 132. In relation to school taxes and sewers in the city of Toledo, 442, 452, 472, 544, 571, 579.
- 137. To authorize the trustees of Perry township, in the county of Columbiana, to levy a tax to erect a Town Hall and Market House in said township, 417, 427, 472, 545, 575, 579, 603.
- 156. To authorize the trustees of townships in the county of Union, to levy an additional road tax, 394, 407, 472, 544, 688, 704.
- 202. To authorize the town council of the town of Warren, to assess, and collect an additional tax for fire purposes, 461, 466, 472, 544, 594, 626.
- 270. To provide for the taxation of the Little Miami Rail Road company, 748, 761, 736, 777.

TEMPERANCE—TAVERNS—INTOXICATING LIQUORS.

- 132. To repeal an act entitled an act regulating the sale of intoxicating liquors, in the town of Cuyahoga Falls, 442, 452, 707.
- 219. Regulating the granting of licenses to taverns, public houses and houses of entertainment in certain cases, in the city of Columbus, 497, 510, 534, 553, 647, 675.

MISCELLANEOUS.

- 14. In addition to an act in relation to incorporated religious societies, passed March 5, 1836, 201, 205, 208, 306, 415, 436.
- 19. To incorporate the Ohio Institute of Natural Science, 175, 206, 215, 283, 293, 312, 599.
- 33. Concerning writs of error in fact, 250, 255, 472, 555, 593.

40. **BILLS OF THE SENATE—Continued.**

Number

24. To amend the act relating to Juries, 497, 510, 614, 730, 750.
42. To repeal the act entitled an act to authorize the town of Hamilton to borrow money and for other purposes, 377, 381, 472, 545, 573, 592.
56. To give additional security to land titles, 417, 427, 472, 499, 595, 621, 741, 754, 776.
71. To provide for the better preservation of the bonds of executors and administrators of the estates of deceased persons, 372, 331, 472, 543, 593, 621.
85. To amend the act to provide for the internal improvement of the state of Ohio by Navigable canals, 337, 340, 423, 439, 456.
66. Allowing J. W. Baldwin, administrator of the estate of M. J. Gilbert, late of Franklin county, deceased, to complete real estate contracts of intestate, and to partition to sell lands, 228, 292, 421, 436.
93. To change the name of Elizabeth A. Degraw, 412, 452, 470.
112. Further to amend the act to dispense with proof in certain cases, passed December 18, 1823, 442, 451, 472, 543, 595.
115. Repealing a part of the 6th section of the act of January 24, 1848, 751, 766.
118. To revive the fourth section of an act therein named, 604, 603, 613, 622.
135. To amend the act entitled an act to amend an act relating to wills, passed March 23, 1840, and for other purposes, 461, 466, 595, 622, 707, 729.
139. To legalize a change in the town plat of Winchester, in Fairfield county, and to confirm the conveyance made by Reuben Dove, proprietor of Dove's addition to said town of Winchester, of the north half of lots Nos. 17 and 18, to Jacob Reese and others, 538, 547, 613, 626.
158. To establish a land office at Defiance, and to abolish the land offices at Lima and Perrysburgh, 497, 510, 608, 627.
161. Amendatory of the act to provide for the profitable employment of convict labor on the new State House, passed February 21, 1848, and for other purposes, 600, 608, 667, 697, 743.
169. To repeal a part of a certain act therein named, 631, 635, 695, 695.
171. An act relating to occupying claimants of lands, 678, 692, 711, 741, 757.
187. To repeal the provisions of the 41st section of the act for the punishment of crime, 507, 510, 613, 626, 739.
191. Concerning negotiable instruments, 631, 635, 685, 705.
193. To amend an act entitled an act to amend an act directing the mode of proceedings in chancery, passed February 21, 1846, 678, 692, 706, 714.
190. To extend Market street, in the town of Springfield, 342, 460, 466, 482, 491.

BILLS OF THE SENATE—*Continued.*

Number.

- 201. To authorize the establishment of a poor house by the city of Cleveland, 497, 613, 626.
- 207. To prevent railroad companies from charging a greater compensation for freight or passengers than is allowed by law, 497, 510, 613, 626.
- 209. To amend the act entitled an act regulating judgments and executions, passed March 1, 1831, 604, 608, 614, 744.
- 210. To amend the act passed February 20, 1848, directing the mode of proceeding in chancery, passed March 14, 1841, 507, 510, 615.
- 212. In relation to the Miami Canal, the Miami Extension Canal, and the Wabash & Erie Canal, 497, 510, 633, 642.
- 163. To repeal the fifth section of an act entitled an act to authorize the commissioners of this State to lay out and establish certain State roads, 497, 510, 615, 669, 698.
- 215. To amend the act entitled an act to abolish imprisonment for debt, passed March 19, 1838, 617, 621, 685, 744.
- 231. To amend the act entitled an act providing for the punishment of crime, passed March 7, 1838, 604, 608, 614, 740.
- 236. To authorize the canal fund commissioners to exchange certain certificates of the funded debt of this State, 617, 621, 704, 725, 737.
- 237. In relation to fees of grand and petit jurors of Cuyahoga county, 617, 621, 685, 705, 726, 737.
- 245. To detach certain sections from Morrow county and attach the same to Richland county, 747, 759.
- 240. Recognising the New Orleans and Ohio telegraph company as a body corporate and politic within the State of Ohio, 728, 729, 761, 776.
- 256. To prohibit judges from officiating as attorneys in the courts of justices of the peace, 748, 768.
- 268. In relation to the State road leading from Lower Sandusky to Findlay, 691, 750.
- 271. To amend the act to provide for the recording of town plats, 729, 741, 745, 752.
- 273. Relating to certain real estate in the town of Franklinton, Franklin county, 729, 735, 761, 768.
- 278. To render practicable the provisions of the act to authorize the commissioners of Highland county to subscribe to the capital stock of the Hillsborough & Cincinnati railroad company, 797.

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- 245. To amend an act passed February 24, 1848, entitled an act to amend the act entitled an act for the support and better regulation of common schools and to create permanently the office of superintendant, passed March 7, 1838, and the acts amendatory thereto, 539.
- 191. To amend the act entitled an act to create the office of Attorney General and to prescribe his duties, passed February 16, 1846, and the act amendatory thereof, 548.
- 208. To incorporate the city of Milan, in Erie county, 549.
- 253. To protect public grounds and enclosures and to prevent certain animals from running at large, 550.

YEAS AND NAYS—Continued

Number.

- 239 To incorporate the Warren county Farmers' Mutual Fire Insurance company, 547, 573, 574.
- 325 Making appropriations for the year 1849, 566, 567, 568, 582, 590, 590.
- 180 To fix and apportion the representation of the state of Ohio, 575, 585, 636, 637, 674.
- 31 To exempt a Homestead from levy and sale on execution, 580, 581, 715, 716.
- 301 To repeal an act entitled an act to levy duties on the income of practicing lawyers and physicians, passed Feb. 22, 1830, 595, 596, 610.
- 357 To authorize the commissioners of Stark county to subscribe stock to the Ohio and Pennsylvania rail road company, 597.
- 252 To confirm the charter of the Covington and Cincinnati bridge company incorporated by an act of the General Assembly of Kentucky, passed Feb. 17, 1846, with certain limitations, 600.
- 203 To amend an act to regulate proceedings before justices of the peace in criminal cases, 606, 609.
- 345 To erect the county of National, 616.
- 377 To exempt from levy and execution certain property therein named 634.
- 330 Concerning the sale of intoxicating liquors, 638, 639.
- 339 To incorporate Sidney Lodge No. 60 of the Independent Order of Odd Fellows, 641.
- 373 To amend an act to incorporate the State Bank of Ohio and other Banking companies, 643, 644.
- 316 To incorporate the Defiance Female Seminary, in the county of Defiance, 647.
- 355 To amend the charter of the Cleveland, Columbus and Cincinnati Rail Road Company, 669.
- 242 To amend the act to provide for the settlement of the estates of deceased persons, 672.
- 354 To repeal the ninth section of the act entitled an act to incorporate the Milan and Richland Plank Road Company, passed January 31, 1845, 693.
- 238 To amend the act entitled an act for appointing of Notaries Public, passed February 17, 1816, 694.
- 11. To improve the law of evidence, 703.
- 63. To repeal the act to incorporate the Ohio Life Insurance and Trust company, 707.
- 348. Incorporating the Ohio Iron and Coal company, 737.
- 352. To authorize courts of common pleas to view and determine cases where injury may be done to private property by virtue of any of the public works of this State, 740, 771, 780.
- 358. More effectually to secure the rights of married women, 740, 755.
- 380. To provide for the completion of the new State House and to re-

YEAS AND NAYS—*Continued.*

Number.

- peal all acts, parts of acts, and joint resolutions conflicting therewith, 741.
10. To extend and apply the forms of proceeding in Chancery to all cases of common law, 755, 756.
172. To repeal the act entitled an act to amend an act fixing the rate of interest, passed February 18, 1848, 760.
38. To amend an act entitled an act regulating descents and the distribution of personal estates, passed Feb. 24, 1831, and the act amendatory thereto, passed March 7, 1835, 775.
19. To incorporate the Perrysburgh and Findlay Plank Road company, 315, 300, 312.
11. To incorporate the Springfield Female Seminary in the county of Clark, 360.
61. Incorporating the Scioto Valley Railroad company, 383, 384.
29. To amend the act to incorporate the Ross County Turnpike company, passed February 19, 1848, 384, 385.
116. To incorporate the Warren and Lake Erie Plank Road company, 390.
35. Authorizing the town council of Akron to levy a tax to liquidate the debts due from said town, 456.
104. To authorize the Commissioners of Highland county to subscribe to the capital stock of the Hillsboro and Cincinnati Railroad company, 495, 559, 622.
31. To authorize the city council of the city of Cincinnati to borrow two hundred thousand dollars, 553.
74. To amend the act entitled an act to incorporate the Medina Co. Mutual Fire Insurance company, 558, 629.
72. To provide for taxing certain lands sold by the United States, 562.
89. To incorporate the St. Mary's and Wapakonetta Plank Road company, 564.
151. To incorporate the Cleveland and Willoughby Plank Road company, 565, 579.
58. To incorporate the Toledo and Woodville Plank Road company, 578.
130. To amend the act entitled an act to incorporate the Ripley and Hillsborough Turnpike company, passed February 19, 1833, 584.
228. To authorize the Commissioners of Scioto county to subscribe to the capital stock of the Scioto and Hocking Valley Railroad company, 623, 654.
113. To authorize the city of Cleveland to subscribe to the capital stock of the Cleveland and Pittsburgh Railroad company, 623.
222. To incorporate the Bellevue, Monroeville, Norwalk and Burningham Plank Road company, 627.
234. To incorporate the Columbus Horticultural Society, 627.

YEAS AND NAYS—*Continued.*

Number.

- 6. To provide for ascertaining of the will of the people of this State upon the question of calling a convention to amend or change the constitution of the same, 638, 651, 652.
- 161. Amendatory of the act to provide for the profitable employment of convict labor on the new State house, passed February 24, 1848, 657, 658, 559, 660, 661, 662, 663, 664, 665.
- 219. To regulate the granting of licenses to taverns, port houses, and houses of entertainment in certain cases in the city of Cleveland, 676.
- 250. To incorporate the Lower Sandusky and Rollersvill Plank Road company, 698.
- 107. To incorporate the Toledo Lodge No. 144, of the Free and Accepted Masons in the county of Lucas, 725.
- 238. In relation to Coroner's juries, 726.
- 239. To incorporate the Society of Savings in the city of Cleveland, 727.
- 258. To authorize subscriptions to the capital stock of the Bellefontaine and Indiana Railroad company, by towns and townships on the line of said road, 727.
- 272. To incorporate the Defiance and Findlay Plank Road company, 742.
- 170. To extend the corporate limits of the town of Portsmouth, 757.
 - 1. To incorporate the Western Reserve Farmers' Insurance company, 757.
- 263. To revive the act entitled an act appointing commissioners to lay out and establish a free turnpike road from Eaton to Sugar Valley in Preble county, passed February , 1848, 759.
- 131. To amend the act entitled an act to incorporate the Milford and Chillicothe Turnpike Road company, passed February 11, 1832, 760.
- 159. To authorize the trustees of Marion and Jefferson townships in the county of Clinton, to borrow money, and for other purposes, 765.



1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the transparency and accountability of the organization. This section also outlines the specific procedures for recording and verifying financial data.

2. The second part of the document addresses the challenges associated with managing a large volume of data. It highlights the need for efficient data management systems and the importance of regular data audits to ensure the integrity and accuracy of the information. This section also discusses the role of technology in streamlining data management processes.

3. The third part of the document focuses on the importance of communication and collaboration among all stakeholders. It stresses that effective communication is crucial for ensuring that everyone is on the same page and that all necessary information is shared in a timely and accurate manner. This section also outlines the specific communication protocols and channels to be used.

4. The fourth part of the document discusses the importance of ongoing training and development for all staff members. It emphasizes that continuous learning is essential for staying up-to-date on the latest industry trends and best practices. This section also outlines the specific training programs and resources available to staff members.

5. The fifth part of the document discusses the importance of regular reporting and analysis of the organization's performance. It stresses that regular reporting is essential for identifying trends, assessing progress, and making informed decisions. This section also outlines the specific reporting requirements and the tools and techniques used for data analysis.

ERRATA.

PAGE.	LINE.	
84	41	For 'was' read 'were.'
84	43	read 'demanded <i>the</i> yeas and nays.'
89	45	for 'Brookfield' read 'Brookville.'
103	44	for 'made' read 'and make it.'
126	36	for 'H. No. 59' read 'H. No. 69.'
159	22	for 'to extend the provisions of an act regulating descents and the distribution of personal estates, &c.,' read 'to extend the provisions of an act to encourage the organization of fire companies and to repeal former acts, passed Feb. 8, 1847, to the town of Circleville, in the county of Pickaway.'
159	48	for 'Buckhaus' read 'Backhaus.'
162	7	for 'amend' read 'extend.'
162	8	after '1847' read 'to the town of Circleville, in Pickaway county.'
187	17	after H. No. 110, insert: 'H. No. 111. Fixing the time of holding the courts of common pleas in the thirteenth judicial circuit. 'H. No. 112. To incorporate the Union Bridge and Cincinnati turnpike road company. 'H. No. 113. To incorporate the town of Dalton in Wayne county. 'H. No. 115. To authorize the sale of school lands belonging to Tymochtee township, Wyandot county. 'H. No. 116. To incorporate the Erie Mutual Insurance Company.'
193	5	for 'H. No. 14' read 'H. No. 140.'
194	40	for 'H. No. 41' read 'H. No. 141.'
194	43	for 'Supreme' read 'Superior.'
196	28	after 'engrossed' read 'and read the third time forthwith, which was accordingly done.'
206	36	for 'purchases, read 'franchises.'
220	44	read 'March' 5.
241	12	insert 'H. No. 190. By Mr. Howard; to amend the act entitled an act to incorporate the town of Xenia in the county of Green, passed Feb. 9, 1830, and for other purposes. 'H. No. 191. By Mr. Pugh; to amend the act entitled an act to create the office of Attorney General and to prescribe his duties passed Feb. 16, 1846, and the act amendatory thereof.

PAGE.

LINE.

		'H. No. 192. By Mr. Pugh ; for the more speedy administration of justice in Hamilton county.'
		'H. No. 193. By Mr. Leiter ; for the relief of the sufferers by the flood of Massillon occasioned by the breaking of the Sippo Reservoir dam.'
251	28	for 'Mills' read 'Miller.'
258	29	for 'was' read 'were.'
290	1	for 'H. No. 27' read 'H. No. 127.'
295	14	for 'was' read 'were.'
303	10	for 'was lost' read 'prevailed.'
303	15	for 'H. No. 149' read 'H. No. 249.'
308	3	for 'S. No. 61' read 'H. No. 61.'
354	31	for 'H. No. 201' read 'H. No. 291.'
355	29	for 'H. No. 282' read 'H. No. 252.'
368	42	for 'S. No. 82' read 'S. No. 89.'
376	44	read 'H. No. 74.'
387	43	for 'S. No. 53' read 'S. No. 63.'
407	18	for 'S. No. 115' read 'S. No. 105.'
415	5	for 'was' read 'were.'
418	1	for 'H. No. 19' read 'H. No. 119.'
419	33	for 'J. M. Hart' read 'S. M. Hart.'
424	25	for 'H. No. 110' read 'H. No. 210.'
439	32	insert 'Mr. Pugh, from a select committee, reported a bill (H. No. 338) to establish grades and enforce the improvement of streets, roads and alleys in the south eastern part of Mill Creek township, Hamilton county, Ohio ; which was read the first time.'
439	41	insert 'Mr. Holcomb, from a select committee, reported a bill (H. No. 342) to incorporate the Middleport and Rutland Plank Road Company ; which was read the first time.'
484	40	for 'H. No. 72' read 'H. No. 71.'
510	18	for 'S. No. 12' read 'S. No. 212.'
535	4	for 'S. No. 281' read 'H. No. 291.'
"	7	for 'S. No. 61' read 'H. No. 61.'
"	32	for 'H. No. 170' read 'H. No. 370.'
539	25	for 'H. No. 113' read 'H. No. 243.'
543	41	for 'S. No. 82' read 'S. 89.'
545	31	for 'H. 398' read 'S 111.'
552	16	for 'H. 27' read 'H. 275.'
579	45	for 'S. 31' read 'H. 31.'
598	27	insert 'on motion, the constitutional rule was dispensed with, and the said bill was read the second time, and referred to Mr. Monfort.'
608	4	insert 'H. No. 386, concerning costs upon the Governor's requisition was read the second time, and referred to the committee on the judiciary.'

PAGE.	LINE.	
		'H. 387, to amend the act entitled an act to repeal the act entitled an act for the support and better regulation of common schools in school district No. 1, in Ravanna township, and for other purposes, was read the second time and referred to Mr. Rockwell.'
613	23	read 'S. 200.'
630	5	for 'S. 261,' read 'S. 235.'
635	33	for 'H. 255, read 'S. 255.'
667	9	for 'H. 396,' read 'H. 397.'
676	41	for 'H. 397,' read 'H. 398.'
680	11	for 'James Stewart,' read 'Jones, Downs.'
692	26	for 'H. 397,' read 'H. 398.'
692	33	for 'H. 398,' read 'H. 397.'
703	15	for 'resolutions,' read 'journals.'
705	42	after 'also,' insert 'S. No. 176.'
614	35	for 'S. No. 31,' read 'H. 31.'
729	3	for 'S. No. 292,' read 'S. No. 272.'
737	8	after 'also,' insert 'S. No. 102.'
738	36	for 'H. No. 59,' read 'H. No. 57.'
755	14	for 'indefinitely postponed,' read 'postponed until the first Monday of December next.'
776	12	for 'S. No. 172,' read S. No. 272.'

NOTE.—The Clerk deems it just to state that the printer is responsible for but a small proportion of the above errors; the rest are attributable to the first Assistant Clerk, whose duty is to make up the daily Journal from the notes of the Chief Clerk. This post was filled, during the larger part of the session, by Mr. Matthias Martin.



Fig. 1 Distribution of *Parachanna obscura* in the Lake Tanganyika